

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Sixth Legislature
State of Maine

Daily Edition

First Regular Session

beginning December 5, 2012

beginning at page H-1

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
FIRST REGULAR SESSION
49th Legislative Day
Wednesday, May 29, 2013

The House met according to adjournment and was called to order by the Speaker.

Prayer by Chaplain William Blaine-Wallace, Bates College, Lewiston.

National Anthem by Nicole Ellis, Litchfield.

Pledge of Allegiance.

Doctor of the day, Timothy Pieh, M.D., Rome.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act To Provide Increased Opportunities on the Allagash Wilderness Waterway

(S.P. 102) (L.D. 269)
(C. "A" S-85)

FAILED of **PASSAGE TO BE ENACTED** in the House on May 22, 2013.

Came from the Senate **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

COMMUNICATIONS

The Following Communication: (H.P. 1121)

**KITTERY SCHOOL COMMITTEE
200 ROGERS ROAD
KITTERY, MAINE 03904**

May 8, 2013

To the Representatives of Kittery, Maine:

Whereas, public education is integral to the democratic viability and economic future of Maine by directly and indirectly contributing to the intellectual and physical development of the children and young adults of our great state; and

Whereas, recognizing the essential need of a strong public school system the voters of Maine in 2004 overwhelmingly approved a referendum requiring the State of Maine to fully fund 55% of the cost of public education; and

Whereas, the state has failed to appropriate its share of funding for public education by over \$500 million in violation of the letter and spirit of the 2004 referendum; and

Whereas, the state has abandoned its commitment to fund our public schools, taxpayers throughout the state have often been asked to shoulder more of the responsibility for funding our schools, often through increases in local property taxes; and

Whereas, the Governor has proposed in his budget moving the funding for our schools backwards by reducing GPA to local school districts by \$12.56 million from 2012-13 levels and shifting an additional \$14 million in retirement costs from the state to the local school districts for each of the next two years; and

Whereas, in response to the Governor's proposed budget in its current form, our school district is being forced to take drastic actions to balance our budget by laying off educators, reducing personnel, cutting programs and/or services, and asking local property owners to pay even more in property taxes to make up from the shortfall from the state; and

Whereas, the spread of this additional burden is not being equally distributed, putting additional stress on municipalities and districts;

Now Therefore, be it resolved that:

The Kittery School Committee calls on the legislators of all parties to fully fund our public schools as expressed by the will of the citizens of Maine in the 2004 referendum by providing the required 55% of the cost of public education in Maine; and
The Kittery School Committee calls upon the legislators of both parties to reject the Governor's proposal to shift pension payments onto local cities and towns; and

Therefore be it finally resolved, the Kittery School Committee calls upon the Maine Legislature to adjust state revenue and expenditures in an equitable fashion in order to avoid regressive tax shifts to municipalities.

S/Patti Ayer

S/Gavin Barbour

S/David Batchelder

S/Kimberly Bedard

S/Julie Dow

S/Kenneth Lemont, Chair

S/Robert Wiles

A TRUE COPY ATTEST:

S/Maryann Place

Town Clerk

READ and **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Sent for concurrence.

The Following Communication: (S.C. 402)

**MAINE SENATE
126TH LEGISLATURE
OFFICE OF THE PRESIDENT**

May 24, 2013

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk MacFarland:

With reference to the Senate's action whereby it insisted and asked for a Committee of Conference on the disagreeing action between the two branches of the Legislature on the Bill, "An Act To Restore to Jimmy J. Soucy the Right To Maintain Existing Structures on Property in Sinclair" (S.P. 95) (L.D. 262)

I have appointed as conferees on the part of the Senate the following:

Senator Troy Jackson of Aroostook

Senator James Boyle of Cumberland

Senator Roger Sherman of Aroostook

Sincerely,

S/Justin L. Alford

President of the Senate

READ and **ORDERED PLACED ON FILE**.

ORDERS

On motion of Representative HAMANN of South Portland, the following Joint Resolution: (H.P. 1067)

JOINT RESOLUTION TO RECOGNIZE THE FIRST WEDNESDAY IN APRIL AS EVERYONE MATTERS DAY

WHEREAS, judgment and discrimination against others may be based on many factors and may be due to a person's accent, age, disability, height, weight, nationality, race, religion, sex, gender, gender-identity or sexual orientation; and

WHEREAS, bullying includes harassment that may occur in the workplace, at schools, in families, in social settings and online; and

WHEREAS, bullying is the harassing display of discrimination; and

WHEREAS, discrimination and bullying have direct effects on the physical, emotional and mental health of an individual, on organizational stability in schools and businesses and on the well-being of society as a whole; and

WHEREAS, a disproportionate number of disabled individuals, African-Americans, Hispanic-Americans, Native Americans and members of the lesbian, gay, bisexual and transgender community report experiencing daily discrimination; and

WHEREAS, 37% of Americans report being bullied on the job; and

WHEREAS, 160,000 children around the nation stay home from school each day because of bullying and fear of bullying; and

WHEREAS, in 80% of school shooting cases in the 1990s, the shooters had histories of being bullied; and

WHEREAS, 90% of lesbian, gay, bisexual and transgendered teenagers reported being bullied at school; and

WHEREAS, more than 50% of adolescents and teenagers report being bullied online and bullying others online; and

WHEREAS, everyone of all ages, groups and backgrounds may be victims of bullying, marginalization and discrimination, and it is reported that half of all suicides among young people are due to bullying; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to support the first Wednesday in April as Everyone Matters Day; and be it further

RESOLVED: That We urge all residents of the State to support the ideals of Everyone Matters Day in order to acknowledge the harmful impact of bullying and of judging others based on appearance or group affiliation and to promote respect and support everyone's right to be who he or she is without being shamed, judged or attacked and we invite everyone to remember the first Wednesday in April as Everyone Matters Day and that April 2, 2014 is Everyone Matters Day in the State; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the national Everyone Matters organization.

READ.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Hamann.

Representative **HAMANN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Earlier this year I approached the founder of the Everyone Matters campaign with the idea of somehow bringing their unique message to Maine. Everyone Matters is a global inclusiveness campaign urging people to "see the humanity in everyone, judge others less, and emphasize that everyone has the right to be exactly who they are, without shame, judgment or attack." Working with celebrity ambassadors like Paul McCartney, Ellen DeGeneres, Tom Brokaw, the Dalai Lama, Betty White, Archbishop Desmond Tutu, and others, Everyone Matters's message is about setting aside judgment, which is at the core of too much hate, bullying, discrimination, and harassment. Everyone Matters Day is an opportunity to promote respect and self-worth; a chance for Mainers to celebrate what makes themselves unique rather than focusing on what makes others different. A day where we correct ourselves for making assumptions about someone based on their accent, their disability, or how old they are; their race, religion, gender-identity, or even the way they dress.

Just as importantly, it's a day where we catch ourselves if we allow the judgment of others to permeate into our thoughts, and fester into poisonous self-doubt. We all know the tragic pattern – a kid is singled out for being different. Too tall, too short, too fat, too skinny, too smart, or too dumb. Anything's fair game if a kid doesn't conform to the homogenized norm. For kids who find themselves the target, this can have a long lasting impact on self-esteem. For some, it can cause serious emotional issues and even depression that they have to live with for many years. But for a few, the sustained social feedback that they're somehow less than perfect because they're different can have dire consequences, whether lashing out at others, resorting to extreme violence, or even taking their own life.

Everyone Matters Day is a chance to say "darn right I am." For someone who feels like an outcast because they're an immigrant, it's a chance to say "darn right I'm an immigrant and I have a fascinating life story." For a kid who gets picked on because he's too short, it's a chance for him to say "darn right I'm short, but it's okay; I'll probably grow soon. And if I don't, that's okay this is who I am." For a kid who gets teased because she's too smart, or she's a nerd, it's a chance to say "darn right I'm smart, and someday I'll be rich, do great things, and if you're lucky maybe I'll give you a job." The bottom line, Everyone Matters Day is a chance to allow kids to embrace who they are without feeling judged, bullied, harassed, or discriminated against. To assure them that everything is going to be okay.

Everyone Matters Day will be on Wednesday April 2nd of next year. I chose to bring this Resolution to the floor 10 months ahead of that date so that schools – if they choose to do so – can prepare to celebrate Everyone Matters Day using ideas from the Everyone Matters suggested school engagement plan. They have a wealth of great ideas, and they're happy and eager to work with schools and teachers to come up with new lesson plans.

I'll wrap up by reading a brief message to the Maine Legislature written by Archbishop Desmond Tutu. He says, "I celebrate the State of Maine as the first state in the United States to officially proclaim an 'Everyone Matters Day' that recognizes and celebrates the value and dignity of every human being. God's dream is that you and I and all of us will realize that we are connected, and that our collective well-being comes when each of us is treated with respect and compassion. Everyone Matters!" Thank you.

Subsequently, the Joint Resolution was **ADOPTED**.
Sent for concurrence.

**REPORTS OF COMMITTEE
Divided Reports**

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act Regarding Contract Indemnification"

(S.P. 290) (L.D. 865)

Signed:
Senator:
PATRICK of Oxford

Representatives:
HERBIG of Belfast
CAMPBELL of Newfield
GILBERT of Jay
HAMANN of South Portland
MASON of Topsham
MASTRACCIO of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-125)** on same Bill.

Signed:
Senator:
CUSHING of Penobscot

Representatives:
DUPREY of Hampden
LOCKMAN of Amherst
VOLK of Scarborough
WINCHENBACH of Waldoboro

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-125)**.

READ.

On motion of Representative HERBIG of Belfast, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-242)** on Bill "An Act To Amend the Laws Regarding a Concealed Handgun Permit" (H.P. 184) (L.D. 223)

Signed:
Senator:
GERZOFISKY of Cumberland

Representatives:
CASAVANT of Biddeford
KAENRATH of South Portland
LAJOIE of Lewiston
MARKS of Pittston
PEASE of Morrill
PLANTE of Berwick

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:
Senators:
DUTREMBLE of York
PLUMMER of Cumberland

Representatives:
DION of Portland
LONG of Sherman
TYLER of Windham
WILSON of Augusta

READ.

Representative DION of Portland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative WILLETTE of Mapleton **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority **Ought to Pass as Amended** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 143

YEA - Boland, Briggs, Carey, Casavant, Chapman, Chipman, Cooper, Cotta, Daughtry, Devin, Dickerson, Dorney, Gideon, Graham, Hamann, Harlow, Hubbell, Jorgensen, Kaenrath, Kent, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Marks, Mastraccio, McGowan, Moonen, Morrison, Noon, Pease, Plante, Rochelo, Rykerson, Schneck, Short, Stuckey, Welsh.

NAY - Ayotte, Beaulieu, Beavers, Bennett, Berry, Black, Bolduc, Brooks, Campbell J, Campbell R, Cassidy, Chase, Chenette, Clark, Crafts, Cray, Crockett, Davis, DeChant, Dill, Dion, Doak, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Gattine, Gifford, Gilbert, Gillway, Goode, Grant, Guerin, Harvell, Hayes, Herbig, Hickman, Hobbins, Jackson, Johnson D, Johnson P, Jones, Keschl, Kinney, Knight, Libby A, Lockman, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Mason, McCabe, McClellan, McElwee, McLean, Monaghan-Derrig, Moriarty, Nadeau A, Nadeau C, Nelson, Newendyke, Nutting, Parry, Peavey Haskell, Peoples, Pouliot, Powers, Pringle, Rankin, Reed, Rotundo, Russell, Sanborn, Sanderson, Saucier, Sirocki, Stanley, Theriault, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Villa, Volk, Weaver, Werts, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

ABSENT - Beaudoin, Beck, Frey, Peterson, Priest, Saxton, Shaw, Treat, Wallace.

Yes, 40; No, 102; Absent, 9; Excused, 0.

40 having voted in the affirmative and 102 voted in the negative, with 9 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative DION of Portland, the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Encourage Transparency in the Disclosing of the Ingredients in Vaccinations for Children" (H.P. 505) (L.D. 754)

Signed:
Senators:
CRAVEN of Androscoggin
HAMPER of Oxford
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PRINGLE of Windham

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:
Representatives:
MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough
STUCKEY of Portland

Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Minority **Ought to Pass** Report.

READ.

Representative FARNSWORTH of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill and what it does is it asks for parents or guardians who are about to have their children vaccinated receive a copy of the list of ingredients provided by the manufacturer and to remind them they do have the choice to not be vaccinated, if they don't want their child vaccinated. I'd like to, it doesn't require doctors to do any more, providers to do any more than that. It's to just see that the parent gets it. You will see that on your desk there is a copy of something that says "Vaccine" in big letters. This is the piece of paper that parents and guardians do get and it tells them a lot of information which is helpful, but you'll see down in the lower right corner, it will say "Anyone who has a severe allergy to any component of a vaccine should not get that vaccine" and so I ask, how can they know if they don't know what the ingredients are in the vaccine? So this is really just to help people be better informed and on the back of the sheet, it says "How can I learn more? Ask your provider." They can give you the vaccine package insert that came from the manufacturer. So all this does is to put in laws to make sure that the parent or guardian does get it because if they are thinking about things that their child might be allergic to, they might not think about egg or soy or that sort of thing. You also have on your desks something from Ginger Taylor and that's who has been involved at the federal level, briefing Congressman Darrell Issa's office for the upcoming hearings by the Committee on Oversight and Government Reform on the federal Vaccine Injury Compensation Program. She hosted Representative Issa this past week at AutismOne Conference in Chicago where he appeared along with Robert F. Kennedy, Jr., who has also been very strong...

The **SPEAKER**: Will the Representative defer? The House will be in order.

Representative **BOLAND**: So Congressman Darrell Issa from California and Robert F. Kennedy, Jr., have both been very strong on asking that parents have more information. As she points out, the ingredients are relevant medical facts. There are some children who cannot be safely vaccinated for one reason or another. Once a child has an adverse reaction to a vaccine, their family has no legal recourse to sue in civil court, merely to file a claim requesting money from the federal Vaccine Injury Compensation Program, which is a very arduously lengthy thing. Currently, when the Department of Health and Human Services determines that a vaccine causes a particular adverse outcome, this is not added to the CDC information sheets that parents are given at the doctor's office, and not added when they find new ones. The vaccine package inserts state that if an adverse reaction occurs, that neither that vaccine nor any other vaccine containing those ingredients should be administered to that child again ever. So those are the reasons why this bill is presented, so that people can get all the information that is important. I'd just like to note that over the years, the number of vaccines that children are given has gone from four shots in 1940, eight shots in 1980, 52 doses of 15 vaccines in 2013 by the time they are age 6. So I bring this because a public health nurse in my town has worked with this quite a lot. She knows a lot about it. And I also bring it because Dr. Meryl Nass of Southwest Harbor, who is board certified in internal medicine and an expert on vaccines, especially anthrax, has supported this because she feels there are things people really need to know. Some vaccines contain egg, which occasionally cause serious allergic reactions. Some

contain gelatin, which are prohibited for kosher Jews. Others are made in aborted fetal cells or their derivatives. So there are hundreds of new vaccines that are in development. They contain an array of new ingredients to stimulate increased immunities. These ingredients do not have to be tested for their standalone toxicity. Their only required testing occurs in a clinical trial. The clinical studies typically last one month. If there is no serious side effects, it's assumed there is none. So all I wanted to say is I've had so much information brought to be me. There are so many instances where families have very dreadful outcomes and I just can't imagine how awful it would be to have a dreadful outcome for my child and think I had not been provided an important piece of information that could have maybe helped me think about it a little bit more before vaccinating. So that's all it is. It's just to give people information. They can think about it a little more. Doctors aren't required to do anything. They don't have to give a big explanation or do anything. They can send people to the website, but at least they have it, and I think it's a kindness for us to see that they get it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and in support of the bill proposed by the good Representative from Sanford. In case you missed it, let me read to you the summary of what this bill actually does. "The purpose of this bill is to provide greater transparency regarding the ingredients of vaccinations and to reduce confusion related to school immunization requirements and a parent's right to decide against immunizing that parent's child. The bill requires a health care provider or clinic staff person to, prior to immunizing a person under 18 years of age, disclose the ingredients of the immunizing agent or agents to the parent or guardian of the child. It also requires the health care provider or clinic staff person to notify the parent or guardian of the option of refusing immunization of the child based on religious or philosophical beliefs."

This bill is not an anti-immunization bill. It is not an anti-vaccine bill. I would not cosponsor it if it was. This is about local control and the right to know. For me, local control at its most basic level for this is empowering people to be proactive in their own health care decisions, not only for themselves but also for their children. The right to know is also important to me, and I think it's a right to know about what's being injected into our bodies and the bodies of our children. What's wrong with knowing that in order to prevent, let's say, measles, we need to inject a great concoction that includes aborted fetal cells into our bodies. Sounds great. The excuse that we as average citizens couldn't possibly understand the ingredients and what it means is not an excuse for inaction for not allowing us the knowledge of what is entering our bloodstream. We take great care in regulating food with nutrition and ingredient labels. Do you want to know that the beef you bought at the store is really beef and not mystery meat? Knowing what is in your vaccine, to me, is no different. All this would do is add the ingredients to the handout that's already given by medical providers, as per federal law, that details what you need to know about a particular vaccine. It's interesting that the handout says "Anyone who has a severe allergy to any component of a vaccine should not get the vaccine." Well, I pose this question: How are we supposed to know if we are allergic to something in a vaccine, if we don't know what the ingredients are? We have a chance with this bill to stand up and fight for the health care interests for the men and women, the sons and daughters, the people that put us in these positions back home rather than continuing to bow down to the

interests of the pharmaceutical companies just because they threaten to bankroll your opponent in the next election. I urge you to think of your district before you vote no. I take that back. I urge you to think about your kids' health and your God-given right to make your own informed health care decisions based on facts. Thank you, Mr. Speaker, and I request a roll call,

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Forced family fun for the Harvells on Memorial Day has long been a trip through the woods to look at our cellar holes and cemeteries of where their ancestors have lived. This Monday while we were walking, my daughter was with her friend and while we were in some of the cemeteries, she noticed many of the small gravestones and started to look at the ages. Six months, five weeks, a few months. The reality is in the 19th century it was pretty rough to be a child. It was pretty rough to be a woman because childbearing was a very dangerous item as well. And we know that these vaccines have been very successful in solving many of the health care problems that plagued our ancestors, but at the same time, that doesn't mean these debates end. For instance, in the 19th century as well, fire ravaged many communities. In Franklin County, the Town of Farmington, Wilton and Phillips, literally, at one point or another, burned to the ground and they found this wonder material, asbestos, and it was fire retardant, and this solved the major problem of fire. Now, fire existed in these communities largely because they had barns full of hay, kerosene lanterns, cedar shingles on their roofs and they were burning wood. But asbestos was a wonder drug. They put it in flooring, they put it in the curtains where they have plays, and it solved the problem. So, wow, we have fixed the problem, only later to find out, wait a minute, a few years go by, if this becomes friable, it creates another health problem, and I suggest that the same is somewhat true of vaccines. While they have solved many problems, we now know long-term that there may be some other issues that they opened up. And so thinking of these things as we move forward, I would urge you to reject this motion and support a parent's right to know this because it could be that there are some side effects taking place with these that are unintended indeed. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. With all due respect to my colleagues who support this bill, I rise in support of the Majority Ought Not to Pass because this is real. You often hear me speak about what's real. I recall the child, when I first started as a nurse practitioner in Boston, who developed Haemophilus Influenza B. There was no vaccine for that then. She was deaf for the rest of her life. Immunizations are one of the greatest public health success stories we have, again, one of the most successful public health stories we have, but we are a victim of our own success because people don't remember when people had polio. But I do look to my friends and colleagues and say "I bet you do." I bet I remember my friend whose father had polio, walked with canes, raised seven kids. He lived with polio. The good news is polio was almost completely eradicated from this earth because of these public health measures. Immunization rates are going down because we are scaring people unnecessarily. Immunizations are fully vetted, completely

researched. The CDC supports them completely. I trust that. I trust scientists. I don't trust reports other than those that are solidly based in science. We are now seeing an increase in pertussis. Well, I ask you, ladies and gentlemen, have you had a cough this winter? I have. That cough could be pertussis. As an adult, you can have pertussis, but you don't get really sick. If you have a bad cough that goes on for a while, you might go to the doctor and you then can get an antibiotic and you actually can get better. So what if you go visit your grandchild while you have that bad cough and that grandchild is under six weeks of age, and that grandchild develops pertussis? Can I tell you what happens? That grandchild can get extremely ill, end up in the hospital, in the intensive care unit and possibly die. That's real.

The issues of concern regarding allergies. I trust my fellow providers. When a child receives a vaccine, if there is any indication that they have an allergic reaction because you have to understand, in order to have an allergic reaction, you have to be exposed to the product first and then you develop, a second exposure is when you really develop a bad, bad reaction. So if a child has anything seeming to be an allergic reaction the first time they get their shot, they don't get that vaccine any further, or if they do, they have it done under the auspices of an allergist. We are paying attention. Providers are doing an excellent job. Every parent hears about the possible side effects of vaccines, every parent, before their child receives a vaccine. So I ask you, quite honestly, to not support reading all these ingredients to families because it scares them, and I ask you to support the Majority Ought Not to Pass and I thank you very much, ladies and gentlemen, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from China, Representative Cotta.

Representative **COTTA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and all I have to say is two words. Informed consent. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill will unnecessarily frighten parents, make their decision to understand the pros and cons of vaccination much more difficult, and without a doubt cause many more parents to needlessly opt out of vaccination on their children, one of the most effective public health initiatives of all time, coming in just behind clean water. Health care providers should educate parents and I can speak from experience that they spend many, many hours doing just that, especially before the first round of vaccines or when any new vaccine is introduced. If parents request to see a list of ingredients in a vaccine, that should never be denied and can easily be done by sharing the package insert. But to take the time, waste the time in going down the list of inactive ingredients in the vaccine would prevent the provider from both listening to their patients and their concerns and providing much more important cost effective evidence-based education. Well-child visits are incredibly important, high vaccination rates are critical in the health and wellbeing of our children. Please do not discourage them and support the Majority Ought Not to Pass Report. Thank you.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Volk.

Representative **VOLK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a tough one for me. Many of you know I have a son who is on the autism spectrum; he was diagnosed when he was seven years old, and we have no idea what caused his autism. We don't have any other family members, so there doesn't seem to be a genetic predisposition. It could have been vaccines. He did receive all of his vaccines per the normal schedule for his age, but I don't recall any particular reaction. He was a very healthy baby, a very happy baby. A little slow on his speech, but hit all of his other developmental benchmarks right on schedule. A very, very bright child and he's functioning with a lot of help right now as an almost 22-year-old young man. So this is a tough one for me, but I do find myself leaning toward agreeing with the Representative from Gorham and the Representative from Yarmouth in their concern that taking this sheet of paper and adding all of the ingredients to every vaccine that your infant is going to have injected could elicit an emotional response in parents that would make them less likely to allow those vaccines to be administered. Now there are other options and I do believe that parents should know what their options are. I wouldn't object to that. With our two younger children, we did a delayed schedule where we didn't assault their immune system all at once with all of those. We did do the pertussis because that is very, very dangerous for newborns and that really is the one key vaccine that our pediatrician said we couldn't delay. But, you know, we found our pediatrician very open to working with us and I believe that if one of our children had shown signs of some sort of allergy, a responsible pediatrician would do just that. So I guess the question that I would have, I'd like to pose through the Chair, would be are these ingredients available upon request by the parent or for the pediatrician to inform parents in the case of knowing that there is a history of autism in the family or there is a history of allergies with the child. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Dorney.

Representative **DORNEY**: Thank you, Mr. Speaker. To answer the question, yes, this is readily available on the internet and it's readily available in the insert from the vaccine. So if anyone has a particular allergy that their child might have, this is readily available. The question before us is whether this should be required to be provided to all parents before they are vaccinated. I see this as an anti-vaccine bill. This will discourage parents from getting their children vaccinated. Someone mentioned the measles. Right now, there is an epidemic, an outbreak of measles in Britain because people are not getting vaccinated. We do not need that in this country. I have also seen patients who have had diseases where it's not preventable by vaccine. When I was a resident, one of my residents in another year had a child with meningitis. There were three children diagnosed within a week. Two of them died. The other resident's son did survive, but he did have brain damage. These are real diseases. Anybody who lived through growing up with polio, I remember I grew up in Green Bay, Wisconsin. The entire city went and got a polio vaccine and probably everybody who is my age or above can remember that. You know, we knew people who had polio. These are very serious diseases. The FDA does a very good job at making sure these vaccines are safe and effective, and I hope that you will support the majority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Dickerson.

Representative **DICKERSON**: Thank you, Mr. Speaker. I just wanted to rise to share my personal experience with this issue. I chose to do something very similar to the good Representative who spoke before me and I went on kind of a delayed vaccination schedule with my two children who are now 15 and 25. I found, in my personal experience, that the way that I was able to handle these decisions and these choices had a lot to do with the physician that I was working with as opposed to their personal feelings. It wasn't that I didn't want to vaccinate my children at all. It was that I wanted to weigh the risks as best as I could working with the physician to make the best decision, you know. For example, a killed versus a live vaccine. I wanted to read everything I could learn about this to determine which one was best. I found that like with all things, you know, you kind of weigh the risk. It's like law. You know, you look at a case and you think "Okay, well what's the risk here if I go in and file this lawsuit?" and I think it's kind of the same thing with health sometimes. You know, we look at the public good and we think about the risk involved. Okay, so maybe a couple of people are going to get sick and die here, but the overall public good is going to be that we wipe out these debilitating diseases as best as we can, and for me as somebody who likes to function from a very logical place, it's really important for me to weigh those risks very carefully and to be able to assess them very clearly. Instead of having a doctor tell me "This is what you need to do," I really want to be able to look at that and say "Okay, let's come up with a game plan together." You know, it's kind of funny because I'm not somebody who scares very easily and, you know, when I was, well, I mean, I was 23 years old, I guess 22 actually, when a doctor tried to tell me that if I was going to have my baby at home that, you know, all kinds of terrible things were going to happen to me and he tried to scare the living daylights out of me. I went ahead and did it anyway and I just, you know, found somebody else who was willing to work with me with what I actually wanted to do. It wasn't that I didn't want to have a successful birth and take care of my child and, you know, provide good health care. It was that I wanted to be able to do it in a way that worked well for me. And both of my children are vaccinated. We did it on a totally different time schedule and we did it with choice, and I think that's really all that people are asking here, so thanks.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. The arguments that I'm hearing seem to lead me to a place that makes me extremely uncomfortable and that is we are afraid that if we give people information, they will make a choice different than the choice we want them to make, and that would be to vaccinate their children, which I believe parents should have the right to do or not do. If you withhold information from people so that they do what you want them to do, then I believe you are controlling them and that makes me uncomfortable, so I will not be voting for this motion.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The oldest of our five sons, Gabriel, had his pertussis shot at the earliest age that the doctor recommended and that day he suffered a slight seizure and then fell into a deep sleep that he could not be awoken from for six hours. Our doctor said he evidently was allergic to something in the vaccine, that he should never have another pertussis vaccine, and none of our other children, if we chose to have more children, should ever have them because of

the danger. Do our citizens deserve to know the ingredients in the vaccines they give their children or are we so arrogant as to think that the information that is available should be withheld from them for their own good? Let our families make their own informed choices with all the information available. Please join me in voting against the pending motion.

The **SPEAKER**: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I trust science. I have four grown children, all of them vaccinated, eight grandchildren and a great grandchild. We've never had any issues with the vaccination program. That's our personal experience. However, I do support the Minority Ought to Pass Report because I think it's good policy to ensure that those who need it will get the information because it's going to, through this bill, be encouraged, that there will be a transparency that will be encouraged, and that's what I see this bill doing. If that will answer the questions of the public, generally and specifically, then that's good policy. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Windham, Representative Pringle.

Representative **PRINGLE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. On the surface, I think all of us believe that the more information we have and not hiding information is the right thing to do, but then in practicality, we also find that there are reams and reams and reams of things to read and we may not have time to read them, so we look to resources that help us make things more succinct. And so, I, as a physician, always used the vaccine information sheet when I saw parents and offered them vaccines, and I would tell them the reasons they should consider the vaccine and then we had routine questions that we went through before we determined it was safe. Have you had a prior reaction to this vaccine? Do you have egg allergy? There are certain common things that we ask and if a patient and I had patients who didn't like vaccines. They didn't believe in them. They really were convinced that they caused more harm than good. The patient has a choice to refuse. And, as Representative Dorney pointed out, the data is available. If someone says "I really want to know what's in there," we can route them and say "Here, go to this website and you can get the long detailed info." And my good colleague from Sanford sent an email out to us with a link to the CDC site and out of interest, I went in and looked, read down a list of chemicals that certainly are beyond my level of expertise to know about safety, and so then I think "Okay, how do I determine that these are safe?" Well, the vaccine trials that are done are done to test for safety. Are they perfect? No. One year, we had flu vaccine that caused a small number of people to get Guillain-Barre syndrome, a fairly serious illness. But influenza is a serious illness. It kills young children, infants, and it can kill older people, and the death rate from influenza is significant and that's why we go through these campaigns. So when I think practically about the cost of my providing more than a copy of the vaccine information sheet, which basically is a resource in asking those questions, we all talk about adding to the cost of what we do in doing business and we want to keep the cost of health care down. I believe that people can get this information without our mandating that it be provided in the physician's or nurse practitioner's or care provider's office. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Just following up on what the good Representative from Windham was saying, you

know, I have been struggling with this particular issue because I do believe in disclosure, but I guess for me the thing comes down to the word "shall." We are directing, we are mandating health care professionals to provide extra information and I am just concerned that that creates a dangerous precedent and I think that we should be trusting our health care professionals. But I also recognize that if people want to have access to this information, they should have access to this information. The problem is they already do. If you do a Google search it's there, so I would argue that any parent that really cares about their kids and is concerned about this can find the information that they are looking for, and we've heard a couple of different stories from a couple of different parents who talked about how they did just that. So I'm just concerned that we are creating an additional mandate when we don't necessarily need to, and any time we use the word "shall" in statute, we should be very cautious about what the unintended implications of that may be. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not a scientist and so cannot speak to many of the issues that have been brought up here, but what I've learned today is that all the information that we're talking about is readily available to individual parents through other sources. But by making it a mandate, when we do such things, there is usually an agenda that comes with that and I fear that the agenda here is to discourage parents from obtaining vaccinations for their children, and the problem with that is not just the individual child's vulnerability to these terrible diseases, but it's a public health issue. The fewer children that are vaccinated, the more society at large is at risk that this disease will again become an epidemic. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. It's my understanding that 123 of us cosponsored the GMO labeling bill, in large part because we believe that consumers should make informed decisions regarding their food supply and how they choose nutrition. For me, this is another opportunity to provide information so people can make an informed decision. I'm not fearful that they'll make the wrong one. I think we need to give them the information. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Longstaff.

Representative **LONGSTAFF**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When I saw this as a freedom of information bill, I was strongly inclined to support it. As I looked carefully at the bill, I see two things are very closely linked and as Representative Russell pointed out, they are mandates. They say they shall do this. At the same time that the health care provider shall give the parent the information of the ingredients in the vaccine, that provider shall at the same time notify the parent you have a right to refuse. These two things together make it appear to be more an anti-vaccination bill, and I will now be voting in favor of the prevailing motion.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 144

YEA - Berry, Brooks, Campbell J, Carey, Casavant, Cassidy, Cooper, DeChant, Devin, Dill, Dion, Dorney, Farnsworth, Fowle, Gattine, Gideon, Goode, Graham, Grant, Hamann, Herbig, Hobbins, Hubbell, Jorgensen, Kaenrath, Kornfield, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Nelson, Noon, Nutting, Plante, Powers, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Sanborn, Saucier, Saxton, Schneck, Theriault, Tipping-Spitz, Volk, Welsh, Werts, Winsor, Mr. Speaker.

NAY - Ayotte, Beaulieu, Beavers, Bennett, Black, Boland, Bolduc, Briggs, Campbell R, Chapman, Chase, Chenette, Chipman, Clark, Cotta, Crafts, Cray, Crockett, Davis, Dickerson, Doak, Dunphy, Duprey, Espling, Evangelos, Fitzpatrick, Fredette, Gifford, Gilbert, Gillway, Guerin, Harlow, Harvell, Hayes, Hickman, Jackson, Johnson D, Johnson P, Jones, Kent, Keschi, Kinney, Knight, Kruger, Kumiega, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Marean, Marks, McClellan, McElwee, Morrison, Nadeau A, Nadeau C, Newendyke, Parry, Pease, Peavey Haskell, Peoples, Pouliot, Reed, Rykerson, Sanderson, Short, Sirocki, Stanley, Stuckey, Timberlake, Turner, Tyler, Verow, Villa, Weaver, Willette, Wilson, Winchenbach, Wood.

ABSENT - Beaudoin, Beck, Daughtry, Frey, Peterson, Shaw, Treat, Wallace.

Yes, 62; No, 81; Absent, 8; Excused, 0.

62 having voted in the affirmative and 81 voted in the negative, with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative McCABE of Skowhegan, the Minority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Encourage Alternative Forms of Treatment for Opiate or Opioid Addiction by Prohibiting MaineCare Coverage for Medication-assisted Treatment for Addiction"

(H.P. 553) (L.D. 802)

Signed:

Senators:

CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PRINGLE of Windham
STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-237)** on same Bill.

Signed:

Senator:

HAMPER of Oxford

Representatives:

MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

Representative FARNSWORTH of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative WILLETTE of Mapleton **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Amherst, Representative Lockman.

Representative **LOCKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As the sponsor of LD 802, I rise in opposition to the Ought Not to Pass Report. LD 802 terminates MaineCare coverage for methadone treatment of drug addiction, effective January 1, 2015. I want to begin by briefly reviewing some history on this subject. Renee Ordway's recent column in the *Bangor Daily News* is a good place to start that review. She wrote:

Perhaps it's a good time to ask the question.

What has the presence of three methadone clinics in Bangor done for the city?

In 2000, when the community was struggling with whether to allow one clinic to open, residents attending crowded community forums were told that a clinic could reduce heroin use by 70 percent and decrease crime by 56 percent.

Instead, drug-related crimes in Bangor increased from 154 in 2010 to 237 in 2011, according to reports in the Bangor Daily news, and violent crimes increased by 35 percent in that span. In 2000, 60 people died of drug overdoses in Maine. In 2009, that increased to 179, the BDN reported.

In 2010, Bangor had the highest crime rate in the state, nearly triple the statewide average, according to the BDN.

A recent story in the [Bangor Daily] revealed the state spends \$7 million in transportation costs getting methadone clients to the nine clinics around the state.

That's just \$2 million less than the state pays for the entire methadone program.

Officials will quietly acknowledge the abuse going on. Four people from northern Maine sharing daily rides to a Bangor clinic, yet charging the state separately for their mileage, for example.

The client living with her boyfriend in Bangor, yet charging the state daily round-trip mileage from her parents' home 75 miles away.

But those examples are apparently just the cost of doing business and, though acknowledged as a real problem, have no solution.

That \$7 million figure should not be met with a hapless shrug. Someone should be pounding a fist on a

legislative conference table somewhere and insisting that something change.

Renee Ordway wrote that on March 30 of this year. Ladies and Gentlemen of the House, I am here today to metaphorically pound my fist on this legislative desk and insist that we rethink how State Government deals with the epidemic of drug addiction. That means we will have to challenge some entrenched special interests, and some entrenched ways of thinking about addiction. I will confess right up front to being a heretic. I do not subscribe to the prevailing orthodoxy that drug addiction is a disease. Those of you who do subscribe to the disease model should understand that your theory is just that, a theory. It is not a self-evident truth. In fact, the disease model is a relatively recent invention, first proposed about 40 years ago. I submit to you today that this theory should be discarded. And I would suggest that you randomly survey your constituents for their opinions and see how many of them think treating drug addiction as a disease makes any sense. It seems to me that we have a lot more drug addiction since we started treating it as a disease.

Part of my testimony before the Health and Human Services Committee consisted of citing the work of a Harvard Medical School psychiatrist whose work in this field is widely recognized. Here is an excerpt:

Addiction has very little in common with diseases. It is a group of behaviors, not an illness on its own. It cannot be explained by any disease process. Perhaps worst of all, calling addiction a "disease" interferes with exploring or accepting new understandings of the nature of addiction. This becomes clear if you compare addiction with true diseases. In addiction there is no infectious agent (as in tuberculosis), no pathological biological process (as in diabetes), and no biologically degenerative condition (as in Alzheimer's disease). The only "disease-like" aspect of addiction is that if people do not deal with it, their lives tend to get worse. That's true of lots of things in life that are not diseases; it doesn't tell us anything about the nature of the problem....

So there you have a brief history of how methadone treatment was sold to Maine taxpayers and a critique of the disease model of addiction from a Harvard Medical School professor. I would respectfully suggest to you that all we have done is substitute one addiction for another. And make no mistake, methadone is a highly addictive drug.

Two years ago, the *Bangor Daily News* published a lengthy story about 24-year-old Amanda Higgins of Trenton and her battle against OxyContin addiction. Here is an excerpt from that story:

After two years of traveling to the Bangor Metro [area] for her daily [methadone] dose, Higgins decided she no longer wanted to be a drug addict. She started in November 2008 at 20 milligrams of methadone and went up to 70 milligrams at her peak.

Over several months in early 2010 she decreased her methadone intake until she got down to 5 milligrams. On Aug. 1, 2010, she took her last shot of the cherry-flavored liquid painkiller.

"I stopped and it was the worst three weeks of my life," she said. Her methadone withdrawals "felt like I had really bad flu. It was bad."

"When you kick pills [Oxycontin] you got maybe seven days [of withdrawals], but after the fifth day you start feeling better...." "With methadone it doesn't subside. For three weeks there is no sleeping, your body won't let you, and your skin crawls. That's the worst."

After her withdrawals subsided, Higgins joined Narcotics Anonymous and got a sponsor. She now attends meetings at least three times a week.

"That really saved my life," she said. "It's an amazing program. I can talk to my sponsor about anything. She has provided me a support system."

The HHS Committee heard compelling testimony from several recovering addicts who said that their experience with methadone treatment was a disaster, that it did more harm than good, and that it was Narcotics Anonymous that literally saved their lives after years of battling addiction first to opiates, and then to methadone. The committee also heard from Carolyn Blackfeather Rae, of Dixmont, a licensed professional with a bachelor's degree in behavioral science and a master's degree in public administration. Rae has worked for three different methadone clinics in Maine over the past five years. She told the committee that the status quo is unacceptable, and it looks more like purgatory than recovery for those in treatment, with no exit strategy for the folks standing in line at the for-profit clinics, waiting for their daily dose of liquid methadone. Rae has developed a treatment plan aimed at treating the whole person rather than substituting one drug addiction for another.

In closing, I would ask that each of you bear in mind that we are borrowing money from our grandchildren – that would be the federal funding of MaineCare – to pay for highly addictive drugs, and cab fare to transport the addicts to the clinics where the addictive drugs are administered. Meanwhile, we have seriously disabled people with traumatic brain injuries, people who cannot feed themselves, who qualify for MaineCare, but are on waiting lists because funding is not available for them. This did not happen by accident. This choice to include some and exclude others was the result of decisions made by Maine State Government, of which we are the elected legislative branch. I submit to you that a society with its priorities so horribly skewed is a society with a death wish. LD 802 is more than a wakeup call. It is shock treatment. I urge you to vote down the Ought Not to Pass Report so that this body can consider the Minority Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative HARVELL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For those of you that don't know, in the 1980s, I soldiered into the Netherlands for four and a half years on the military dime, and while there I picked up a set of wooden shoes with a Dutch wife attached to them. But other than that, I was able to view Dutch society. In Amsterdam in the 1980s and Switzerland in the 1980s went upon an experiment and the experiment was that they had massive break-ins, particularly from addicts, and how were they to deal with this. They decided that the way they would deal with this was that they would give free methadone to the addicts to stop the robberies. While the robbery rate went down, another event transpired. The addicts of Europe mysteriously began to appear in Zurich and Amsterdam. Well, why would this be so? It wouldn't take very long to figure out. I suggest that you vote against the pending motion and let you know that if the Dutch have given up on this experiment, the Dutch, then perhaps we should as well. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative JONES: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to speak in favor of the pending motion and also, this will be germane, but there are two other bills related to this that the House will hear, so in the interest of efficiency, I will only speak on this one. As we all

know, the first part of solving a problem is recognizing that we do indeed have a problem and then identifying and understanding the problem itself. The first thing is, we do have a problem. The federal study by the Substance Abuse and Mental Health Services Administration found that the treatment rate for opiate addiction is higher in Maine than anywhere else in the country. In fact, it's eight and a half times higher than the national average. The Maine Alliance for Addiction Recovery reports that in 2010, for the first time, opiates have replaced alcohol as the primary drug for which people are seeking treatment. Maine currently lacks sufficient recovery support programs compared to other states and that I hope we as policymakers listen well to our public health experts, our service providers, to better direct our limited resources in an effective, efficient and integrated way to meet the needs of our individuals in our communities. I believe one of the proper and effective uses of these resources is to focus on addiction and recovery therapies that work, because the cost of not doing so and the cost of relapse is too high. The good Representative from Amherst points out that cold turkey, so-called abstinence, pure act of willpower may work for some addicts, but I would argue that it will not work for all and I hope one of our colleagues in the House who is a medical professional will speak to that. I will only speak to buprenorphine, the so-called Suboxone treatment. Methadone is not in my purview of understanding or expertise.

Suboxone does take away cravings for anyone addicted to opiates like heroin or prescription drugs like OxyContin, okay, and individuals who have been objectively diagnosed and found suitable for treatment, okay, have a relatively high success rate. The literature on opiate and opioid withdrawals suggests that using Suboxone for gradual detoxification is effective in terms of patient compliance and relapse to opioid use. Research recently published in the Journal of American Medical Association of Psychiatry has shown that it is effective toward treatment of prescription painkiller and opiate addiction, but prematurely discontinued treatment, the likelihood of relapse increases. Suboxone does work, but it takes time and those with longer histories and higher doses of opiate and opioid abuse takes longer and sometimes very much longer. However, the key point I want to make is this: At the societal level, opioid and opiate abuse cost over \$50 billion annually and one simple figure, one simple figure will convince us that not doing more is unacceptable. Prescription use and addiction is linked to at least half of the major crimes in the country, okay. In other words, at least half the suspects arrested for violent crimes such as homicide in adults were under the influence of drugs when arrested. But the true cost, the cost of individuals, families and communities are impossible to quantify. Brothers and sisters find themselves separated when one is incarcerated or dies, sons and daughters find themselves stealing from parents or grandparents, neighbors find their relationships torn by lies, children find themselves neglected, individuals find their lives a pointless struggle for one more fix just to get through.

To summarize, we do have a problem. I know the good Representative from Amherst has highlighted a treatment that works for some. I would argue it won't work for all. We know what works. The cost of not properly and effectively addressing this problem is far too high and they far outweigh the cost of maintaining treatment for as long as medically necessary. I will close by saying doing nothing, which is essentially the good Representative from Amherst's solution, doing nothing about this problem is not an option.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Dorney.

Representative **DORNEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have been a Suboxone provider for the last seven or eight years. I know a lot about narcotic addiction, having treated many, many patients with narcotic addiction. I think one of the things people do not understand is that methadone and Suboxone are not the treatments for narcotic addiction. These only are medications that help people stabilize their withdrawal symptoms so that they can treat the reason that they are addicted in the first place. It's the counseling, it's the support, it's the groups like NA or AA that actually treat the narcotic addiction. We have a growing epidemic in this country and this state. Maine has one of the highest narcotic addiction rates in the country. We have to solve this problem. We also know that addiction of many kinds is increasing in this country. If you look at eating disorders, you look at gambling addiction. I mean, alcoholism is increasing in middle age women, but for whatever reason narcotic addiction seems to be the drug of choice in the State of Maine at the moment. If you look at abstinence, the success rate is 5 percent. That means there are some people who can stop their narcotic addiction and never go back, but 95 percent cannot. As several people have talked about, the withdrawal symptoms from narcotics are so severe and make people feel so miserable that they go back to their narcotics of whatever kind because the withdrawal symptoms are so bad. This particular bill actually is illegal because we have to provide methadone and Suboxone if you are in a Medicaid program. So this bill cannot go forward anyway, but we are going to be having several other bills on narcotic addiction and Suboxone and methadone treatments. So we've had many people testify that we cannot actually pass a law to not have methadone or Suboxone treatments. I encourage more people to get into a treatment. We have overdose issues. We have more people dying in the State of Maine from opiate addiction than motor vehicle accidents at the moment. Unfortunately, talking about methadone clinics, we actually reduced the amount of money paid to methadone clinics so that people are not getting adequate counseling which actually is the treatment for narcotic addiction. If we are only going to be giving methadone but not giving the counseling to get them off their narcotics, we are in big trouble. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I agree with the good Representative from Amherst that our drug policies are archaic and I'm sure there are a lot of people here who would agree with me on that; however, we part ways on the science of addiction. Addiction is a neurophysiological change in serotonin levels. You don't get to go back once you're addicted. Let's talk for a second about the problem that we're facing and why we're facing it. The way that this has been presented, it appears that the problem lies with the person who was addicted, that they just aren't strong enough. They're just not smart enough. They're just not good enough. They just didn't work hard enough. Because if they did, they would be a good person and they would not have this problem. The problem with that is that several years ago, Purdue Pharma was brought under investigation because they were teaching their physicians to prescribe at higher levels, and I'm not making accusations that have not already been put out in the media. But I think it's important to revisit that because one of the challenges has been all along and way back when, that the representatives were not representing their product accurately and so physicians were prescribing the products in higher dosage levels that were actually addictive, and the company knew that.

In fact, it was Washington County that blew the lid off of what was happening nationally. This was a national story and it continues to be relevant, and I think it's important to know that because instead of blaming the person who got addicted for taking medication that they were prescribed, if you want to blame someone, let's blame the company that did that. Let's sue them. But right now, we have a whole host of people who have become addicted and are continuing to become addicted because we created a culture, and I think that's a problem. But in the meantime, we are the ones tasked with fixing it. Is this a perfect solution? Certainly not. In fact, one of my constituents, their son died from a methadone overdose because of diversion. That kid had no business having access to it and he did and he died. And so we do need to fix what we currently have as a program, but we also need to make sure that we are not placing blame on the people that have become addicted because they were prescribed this product.

And the other piece, the other question that was raised earlier is, what's the benefit? Well, the benefit is that pharmacies don't get raided at gunpoint. The benefit is that houses do not get broken into at gunpoint. So there are societal benefits that we all reap when we can be safer in our home or we can be safer when our cashiers and our pharmacists can be safer when people are not exercising drug seeking behavior. I am more than happy to have a longer conversation about what our overall drug policy looks like. We should be not criminalizing people for this purpose, we should be treating them, and right now, we're not really treating them, we are criminalizing them, but either way our treatment isn't enough and our jails aren't enough, so we do have a significant problem that we need to deal with, but I don't believe that this is the solution to do it. When I hear from folks all across this state about the medical marijuana program, I hear from people across the socioeconomic spectrum, across the geography of this state, and the overarching conversation that I have is "I got my life back" and people will, one by one, talk about all the opiates that they got off of, or more importantly they will say "My physician wanted to prescribe me Oxycodone, OxyContin, all these other drugs, and because I'm choosing a different pain relief medication..." They don't have to actually take those drugs. Their big concern is that they don't want to get addicted. I would argue that if you were to have a conversation with someone who was struggling with addiction, whether it be food addiction, alcohol addiction, opiate addiction, nobody, I would be hard pressed to find someone that says "I get up in the morning and all I want to do is eat and I'm so excited about it." "All I want to do is to pop pills and that's my quality of life, that's my goal in life." Anybody that is under addiction will probably tell you that that is not the choice that they want to make, and if they had alternatives, they would be exercising them. So the only reason I rise is that we should not be blaming people who are genuinely suffering from a disorder, and we should certainly not be eschewing science because we don't want to let the facts get in the way of a good argument. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Pringle.

Representative **PRINGLE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in support of the Majority Ought Not to Pass Report. I respect the concerns that people have about this and certainly applaud those who are able to battle their addictions on their own or with the support of organizations such as AA and NA, but I do feel I have to speak to the evidence. We have greater than 40 years of evidence in the benefit of methadone programs in helping people get into the treatment that Representative Dorney mentioned, because the methadone is definitely not the treatment. But the

data overwhelmingly shows that methadone, once a day, blocks the craving and the addiction and enables people to get their lives back in order. They are then able to work. They are able to go to treatment. They are able not to be thinking every minute of every day, where are they going to get either alcohol or a narcotic that they need to satisfy that drive.

I also would like to speak to the issue about whether this is a moral deficit or whether this is a disease. The science neuroscience has progressed incredibly in the last 20 years, so that we now can look at the brains of people with addiction and we can see the changes that develop over time, and we can understand, too, the genetic basis. There has been a long understanding that there are co-occurring disorders that persons with mental illness, or we now call behavioral illness. Interesting. We call it behavioral illness, although it really often is generated from our biology, but people with bipolar illness have a much higher incidence of substance abuse or substance dependence. People with anxiety and depression are often self-medicating because they haven't gotten treatment for anxiety depression, and then, unfortunately, the biology of their brain and we can show changes on the brain scan of people with addiction are hooked then, and I don't know how many here have either smokers in their family, people with alcohol problems in their family, this is pervasive across our society and science has come a long way and we heard from many of the experts in treating addiction that, again, this program is the way to save money and get better health outcomes. I would say then to those that are concerned that the more methadone clinics we had, the more problem we had, is that this is true, true and unrelated to each other. So again, I believe in access to health care and getting people reimbursing adequately so that they get the core treatment for those that are not able to do it on their own through either AA or NA. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative Devin.

Representative **DEVIN**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **DEVIN**: Thank you very much, Mr. Speaker. I've heard that opiate addiction causes brain pathways to be altered in the brain, and I'm not fully aware of that and I'm hoping that someone can explain the impacts of these altered pathways and their effects on human behavior and brain function. Thank you.

The SPEAKER: The Representative from Newcastle, Representative Devin, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Norridgewock, Representative Dorney.

Representative **DORNEY**: Thanks, Mr. Speaker. Just like Representative Pringle had mentioned, they've done MRI studies now on people with opiate addiction. There are opiate receptors in your brain that are permanently changed with people with opiate addiction, and once they are changed, you cannot make them go back to normal. It sort of reminds me a little bit of people who have emphysema. Once you have scarring of your lungs from long-term smoking, you cannot reverse that scarring. You can prevent it from getting worse, but you cannot reverse it. The interesting thing about addiction is that most people are using their drug of choice by the age of 16, which is actually pretty similar to people smoking. So this is a disease of young people. You are permanently altering the brain based on MRI studies which makes it very difficult. I hope that helps. Thanks.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Gattine.

Representative **GATTINE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the Majority Ought Not to Pass Report. I'm not going to repeat a lot of what's already been said by my colleagues on the Health and Human Services Committee. Needless to say I'm confident we are going to have a very detailed debate going forward over time about the best way to treat people suffering from addiction. So the one point I wanted to emphasize which I think has been alluded to is, I think, as many people in the House know, because we choose to participate in the Medicaid program and the Medicaid program is primarily financed by the Federal Government, we are required to comply with the whole body of federal Medicaid law in the way that we administer our program, and generally speaking and I think it's important in this conversation, it's important for folks to know that when you participate in Medicaid, you are required to cover all FDA approved prescription drugs of manufacturers that have entered into a rebate agreement with the Federal Government and the drugs we're talking about today are FDA approved. They have rebates in place. So generally speaking, we have to cover these drugs. We do have some leeway in how we manage the way that they are delivered, other treatments around them, counseling. We can put reasonable limits on quantities and dosages and prior authorizations, but what's before us here is really an attempt to ban this drug with respect to opiate addition, and I would contend and submit to this body that that is not allowed under federal law. The issue around the kinds of restrictions that Maine can place upon delivery of methadone as a treatment was actually litigated back in the '90s in federal court, and the State of Maine lost that litigation and since that point has been providing these services. So I would like folks to keep that in mind as they are considering their vote today, and I hope folks will support the Ought Not to Pass Report. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Dickerson.

Representative **DICKERSON**: Thank you, Mr. Speaker. I won't speak much on this particular bill because we are going to have some other bills coming forward and I certainly want to express my respect for the other speakers who have weighed in on this and their own personal experiences. I want to point out to everyone here that the bill's title is to seek alternative forms of treatment for opiate or opioid addiction, and I believe that when the good Representative from Norridgewock spoke, she spoke very well about the fact that methadone and Suboxone are not the treatment, that they are supposed to be providing an opportunity to stabilize so that then the individual can be put into counseling or attend a 12-step program or what other form of treatment could be sought. Unfortunately, to my personal experience, that's exactly what's missing from this whole program. What happens with an addict with any substance that an addict chooses or do not choose, because it actually really isn't a choice to ingest, is that your body needs more and more and more of it to sustain that same high and eventually you stop getting high at all, period, and you are just chemically dependent on this substance. So you've got kind of this conflicting situation happening in which you are ingesting a substance that you are trying to use to stabilize and taper off, but because it is an addictive substance your body is craving more and more of it, and what I have seen in my personal experience is that dosages do get increased and I think part of the problem with this is that we don't have the means and perhaps the money to develop alternative forms of treatment. This is an easier fix in some ways. And so really what I wish we could focus on would be that bill title, the alternative forms of treatment, and to recognize that

continuing to just increase dosages of yet another addictive drug isn't working and we need to have that larger discussion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Please bear with me on this. I am not going to say follow my light. I am going to plead with you this morning to kill this bill. Thirty-three years ago, I was on the brink of death and I found a treatment program in Bangor that helped me, and little did I know that the tools that I was picking up at that time would become very, very useful to me and my family. As I've gone through these years, I've been one of the fortunate few that haven't had a slip and I am today sober and I celebrated 33 years of sobriety, last October 1st. Excuse me, Mr. Speaker. About a year ago, last December, I had a phone call from my daughter and all she said was "Please come, I need you." and I drove to her home in Ellsworth and I found a family in total disarray. And she was on opiates. They have a two-year-old son, my grandson, who I just, if you've never had a grandchild, wait until the surprise happens and you will be a full and complete person. Their marriage is breaking up after only a couple of years, and she was a very, very sick girl. By the way, she has told me that I can talk about her illness here today or any other time that she thinks it will help anybody else. Oxycodone was daily for her. They were stealing it. They were cheating people. They were doing things that I never thought I would see this beautiful young lady do at 30 years old. I went to her home immediately and sat down, my wife and I, and the next morning we enrolled her in a treatment program in Ellsworth. She ended up on Suboxone and I was scared to death because I don't know much about that drug and I don't know what kind of an effect it has. I do know that the drugs that she were on were eating her up, and though I hate to admit this, there was a child who wasn't developing very well in this house where the family decided drugs were more important than their child. That was then.

In December, I stood with her in an AA meeting, which I attend fairly regularly, had the real privilege just recently of attending one out in Winthrop while she received her one year chip, a medallion, and it's something that she carries in her pocket now every day. We went camping over the weekend and my wife was in the backseat of the truck with the baby, who is now going to be four in June, talking to him, enjoying his company and finding that with the proper parental care, this kid is now beginning to advance dramatically from last year. He is enrolled in speech therapy. He can't say "L." This has been going on for a long time, but other things preoccupied them. My daughter was sitting in the front seat and she opened up her purse and she opened out her Suboxone and she said, "Look Dad, I'm only using a quarter of a piece now." I don't know what that stuff is. I know she takes it and she puts it in the roof of her mouth and she, not anymore, but was, at the time that this prescription was given to her and she was allowed to go to meetings and counseling, was on MaineCare. If we take away this opportunity for people who have these illnesses, not bad habits, I don't have a bad habit with alcohol, I have an addiction to alcohol. She has an addiction to opiates. If we take away the opportunity for them to get this kind of help, what kind of world is it going to be? I hope to God that they are now a model family. I think they are. He is now back to work, although a year ago, right about that time when she crashed, he had been laid off from a job that he'd had for two years. He has a degree from Husson University and during that recession, he had a hard time finding a job and he finally found one and they, last in, first out, laid him off. What kind of family structure are we giving people who we don't

give another chance to? If you can't do this, in your heart, then think of the future that you are giving to the children of this world. God, I don't know how many people out there are addicted or dependent upon some kind of drug or cigarettes or alcohol as I was for so many years, but I do know that there is enough of them out there so that the world would be a different place if we take away this help. This is critical in this society of ours. We need as Lincoln, I think, said, in one of his great speeches, that we will someday, this society will be judged by those folks, be judged by the way we deal with folks who are less fortunate than us. We have a responsibility. I wish that I could ban OxyContin and I wish I could ban all of the opiates out there that inflict this country of ours. It is happening all over. Look at what happened in Bangor with bath salts. We need to have a safety net for them. Some people tell me that my daughter is going to become addicted to Suboxone. I don't know the addictive natures of that, but if she's only on a quarter of a slip of it now and it's almost over, another month or so, and she's working part-time at one job, she's taking caring of her son, she's enrolled him in speech therapy, all of the things that probably would have happened a year ago had she had not had herself blind to the needs. Oh, she fed him well and she took care of everything that he needed in his personal life, but there are other parts of growth. We've heard that said many, many times, that a brain develops at birth and here's a classic example. A wonderful child being spoiled not by his mother and not by his father, but by the addiction that they had. It's better now and I attribute it to the drugs that they were given to get them down off of that ledge that they were standing on the precipice. I know I got help 33 years ago with a treatment program in Bangor. Fortunately, the most I was put on at the beginning was valium because they thought that I was going to have a really hard time with the volume of alcohol. As a matter of fact, they had a straightjacket waiting for me when I got into this private room. I didn't need it. They suspected that I did because I had all the classic signs of the drunk who was going to go into DTs. Again, fortunately I didn't need it. Don't do this to people. Don't pull maybe the last rug out from under some of these people. I've worked in treatment programs. I was a facilitator, I guess, of the aftercare program. I've seen drug addicts come and go, come and go, come and go. They can't often do it on their own. Somebody needs to be there to help. That's our decision today. It's a tricky one. "Is methadone any good in my district?" I hear all the time. People say "Oh, stop giving them that darn methadone. That's just as bad as the drug that they were on." I've seen a lot of guys come out from under that and survive, and they are out there working today, contributing to their families and to society. We can't do this. No, no, we can't do this, I'm sorry. We have to be respectful of the people who need the help. We have the power here this morning to do something. Please, I beg of you, don't do this to my daughter who is a beautiful woman, with a great husband and a wonderful baby. You can still ruin it all. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Belgrade, Representative Keschl.

Representative **KESCHL**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **KESCHL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Today I've heard that only 5 percent of those who choose abstinence for the treatment of their addiction are successful. Can anyone tell me what the success rate is for people when people are treated with methadone in counseling for their addiction? Thank you.

The SPEAKER: The Representative from Belgrade, Representative Keschl, has posed a question through the Chair to anyone who may care to respond. Seeing none, the Chair recognizes the Representative from Harrison, Representative Villa.

Representative **VILLA**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in support of the Majority Report, Ought Not to Pass. I'm disturbed by treatment to any addiction without rehabilitation as the outcome. We cannot continue to encourage drug use under the guise of treatment. However, we need to address and treat substance abuse that ends dependency. This particular bill does neither. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative McGowan.

Representative **McGOWAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to basically bring attention to your choice of whether you think about alcoholism and narcotics as a disease or as a choice, and I encourage you to imagine calling someone in your family – by the way, I'd call my younger brother who has been an alcoholic since he was 16 – and simply informing them that you don't have a disease, you just have a character flaw, you're just making a bad choice. I suggest to you as you consider this bill that each one of us who does not have this disease should get on our knees each day and thank God that we don't. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Powers.

Representative **POWERS**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the Majority Ought Not to Pass Report. I'd like to thank the good Representative from Winterport, Representative Brooks, for sharing his story. He inspired me to rise and simply say that anyone who believes that addiction is not a real illness has been blessed that their lives have not been affected by this disease. My world was turned upside down recently because of it. I watched in horror as one of the best people I've ever known spiraled out of control because of the addiction, because of opiate addiction. You think things like this don't happen to good, hardworking people, but I'm here to tell you that they do and the lives of the people who love them are never the same because of the disease. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Pringle.

Representative **PRINGLE**: Thank you, Mr. Speaker. I rise in attempt to answer the question of the good Representative from Belgrade and I'm sorry I don't have the statistics at the top of my head to be exact, but the methadone programs aren't 100 percent. There are people who enter them who continue to abuse. The program includes urine drug testing and there are people who do not address their mental health problems and if they abuse, they cannot continue in the methadone program, although I think they are given opportunities to get their urine clean. But I think over three quarters of the people, and actually I think it's higher than that but I'm not going to quote, it's definitely a majority of people who enter into methadone programs, who manage, get their lives back together, have a good outcome and a number of them will eventually taper. Methadone is such a long acting drug that taper takes a long time. You don't taper off it rapidly. But people do go into methadone programs, get their lives together, get their counseling and eventually, because methadone has its own risk benefit, long-term it has effects on our hormones, our adrenal cortisol, our testosterone, estrogen effects, and so there are many people, once they have battled

the addiction issues, are willing to try to wean off so that they can avoid those long-term side effects.

The SPEAKER: The Chair recognizes the Representative from Belgrade, Representative Keschl.

Representative **KESCHL**: Thank you, Mr. Speaker, and I thank the good Representative's response to my question and the reason why I posed the question is because I was looking at a long-term study on those who were treated with methadone. One hundred and eighty-four people were followed in this study and only seven were drug free after an extended period of time, and that's why I asked the question. It's less than 5 percent, so I was just trying to make the comparison. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative Devin.

Representative **DEVIN**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I listen to testimony, as far as I understand and what I've learned previously, is that once the opiates alter the pathways in your brain, they are altered, period, and that methadone is just a way to deal with those altered pathways. It's not any sort of a cure and I hope that someone can stand up and correct me if I'm wrong, but it's like a diabetic who is taking insulin. The insulin is not going to cure the diabetes. What the insulin does is enable the person to manage their sugar levels in their body. So when we look at the success rates of curing people with methadone, we're asking the question the wrong way because methadone is not meant to cure opiate addiction. It is meant for people to be able, as the good Representative from Norridgewock said, it's a way for the individual to manage their addiction so they can deal with what initially caused their addiction to begin with, and I hope that if I've got that incorrect, that someone with more expertise than an individual who works with invertebrates knows can stand up and correct me. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Pringle.

Representative **PRINGLE**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **PRINGLE**: I would ask the good Representative from Belgrade what outcomes he would be looking for in a treatment program and the study that he referred to, does he mean continued use of the drug, I mean continued use of methadone or continued use of the illicit drugs or other source of opiates?

The SPEAKER: The Representative from Windham, Representative Pringle, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Belgrade, Representative Keschl.

Representative **KESCHL**: Yes, it will take me one second while I pull it up. These are the numbers. Unable to complete detoxification and returned to maintenance program, 98. Reverted to drugs, 48. Criminal acts, 6. Alcoholism, 23. Dead, 2. Drug-free, 7.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **BROOKS**: Are props now allowed in the House is my only question. Holding up his computer and reading from it, I think, was, at one point, at least against the rules.

On **POINT OF ORDER**, Representative **BROOKS** of Winterport asked the Chair if the use of props by Representative **KESCHL** of Belgrade were allowed during the floor debate.

The SPEAKER: The Chair would thank the Representative for his Point of Order. Essentially, I think what the Representative was doing is trying to read what this study was in comments, but the Chair would remind all members that props are not appropriate here in the chamber to persuade debate. It's my understanding from what the Representative from Belgrade, Representative Keschl, was trying to do was just to read information from his laptop. But thank you.

The Chair reminded all members that no props were allowed during the floor debate.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Mr. Speaker. I rise in support of the pending motion and I would like to provide some clarity on the study that the good Representative from Belgrade referenced. In the abstract of the study, it says, "The success rate of detoxification of patients on methadone maintenance in four outpatient clinics is studied. In comparison with patients in an in-house program, or a hospital environment, the study group did relatively poorly. It is felt that a confined and carefully structured therapeutic environment is much more likely to produce patients who are amenable to successful detoxification from hallucinogenic drugs, than is a walk-in clinic." So the study that he quoted from, that's the abstract. It's also from 1977. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I normally wouldn't disagree with my friend from Winterport; however, I don't think the prop issue and I know you've ruled on it, but it was intended to exclude those things that you would use yourself but it would be those things that you would present to the body, such as charts and what have you. But please correct me if I'm wrong, but I would disagree with my friend from Winterport that the use of a handheld or a laptop would be considered a prop. It's just an opinion. Thank you.

The SPEAKER: The Chair has ruled and indicated that the reading from the laptop was indicated to provide information, not to persuade debate through a prop.

Subsequently, the Chair **RULED** that the use of laptops is allowed if they are used to provide information and not to persuade debate with a prop.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 145

YEA - Beavers, Berry, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Casavant, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dill, Dion, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Hamann, Harlow, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Marean, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Noon, Nutting, Peoples, Plante, Powers, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Saxton, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Tyler, Villa, Welsh, Werts, Wilson, Winchenbach, Mr. Speaker.

NAY - Ayotte, Beaulieu, Bennett, Black, Campbell R, Chase, Clark, Crafts, Cray, Crockett, Davis, Dickerson, Doak, Dunphy,

Duprey, Espling, Fitzpatrick, Fredette, Gifford, Guerin, Harvell, Jackson, Johnson D, Johnson P, Keschl, Kinney, Knight, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, McClellan, McElwee, Nadeau A, Newendyke, Parry, Pease, Peavey Haskell, Pouliot, Reed, Sanderson, Sirocki, Timberlake, Turner, Verow, Volk, Weaver, Willette, Winsor, Wood.

ABSENT - Beaudoin, Beck, Cotta, Kornfield, Peterson, Treat, Wallace.

Yes, 92; No, 52; Absent, 7; Excused, 0.

92 having voted in the affirmative and 52 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Resolve, Regarding the Management of Maine's Brook Trout and Landlocked Salmon Resources

(H.P. 471) (L.D. 679)

Signed:

Senators:

DUTREMBLE of York
BURNS of Washington
HASKELL of Cumberland

Representatives:

SHAW of Standish
BRIGGS of Mexico
CRAFTS of Lisbon
DAVIS of Sangerville
ESPLING of New Gloucester
MARKS of Pittston

Minority Report of the same Committee reporting **Ought to Pass** on same Resolve.

Signed:

Representatives:

EVANGELOS of Friendship
KUSIAK of Fairfield
SHORT of Pittsfield
WOOD of Sabattus

READ.

On motion of Representative SHAW of Standish, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act Prohibiting Property Insurance Discrimination Based on Breed of Dog"

(H.P. 836) (L.D. 1192)

Signed:

Senators:

GRATWICK of Penobscot
WHITTEMORE of Somerset
WOODBURY of Cumberland

Representatives:

TREAT of Hallowell
BECK of Waterville
COOPER of Yarmouth
DOAK of Columbia Falls

FITZPATRICK of Houlton
McCLELLAN of Raymond
PRINGLE of Windham
WALLACE of Dexter

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-243)** on same Bill.

Signed:

Representative:

MORRISON of South Portland

READ.

Representative COOPER of Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill prohibits the refusal to issue or the cancellation or nonrenewal of a property insurance policy or an increase in the premium for the policy solely on the basis of a policyholder's ownership of a certain breed of dog. The restrictions do not apply if a dog has been designated as a dangerous dog in accordance with the law. The Humane Society, American Kennel Club, the Federation of Maine Dog Clubs, Responsible Dog Owners, the American Society for the Prevention of Cruelty to Animals and other important advocacy groups have come out to support this particular bill.

Under current State law, insurance companies can discriminate against homeowners who have dogs that they believe have breeds too dangerous to insure. Constituents of mine have been denied the ability to purchase this vital insurance policy simply because of their family pet that has no violent or aggressive history. Homeowners insurance is the "gatekeeper" to homeownership. Without homeowners insurance, a person cannot get a mortgage. Without a mortgage, most people cannot buy a house. An insured who chooses to lie about a dog's breed or the existence of a dog altogether is committing policy fraud, running the risk of criminal prosecution and the complete cancellation of his or her policy.

The American Kennel Club believes that insurance companies should determine coverage of a dog-owning household based on the dog's deeds, not the dog's breed. If a dog is a well-behaved member of the household and the community, there is no reason to deny or cancel coverage. In fact, insurance companies should consider a dog an asset, a natural alarm system whose bark may deter intruders and prevent potential theft. In addition, the Maine Human Rights Commission even testified before the insurance committee citing the fact that many service dogs for visually impaired individuals tend to be dogs that are blacklisted by insurance companies meaning many service dog owners, by no fault of their own, are being discriminated against from being able to purchase insurance. This, my friends, is wrong.

This quote from the American Kennel Club really sums up the position of many dog owners across the state on this issue: "Like racial profiling, breed specific legislation (or in this case breed specific insurance discrimination) punishes responsible dog owners without holding owners of truly dangerous dogs accountable." It's like getting punished and penalized for something that has never happened and no documented proof that it would happen.

Maine is part of a handful of states that prevent municipalities from having breed specific ordinances which include California,

Colorado, Florida, Illinois, Minnesota, New Jersey, Oklahoma, Pennsylvania, Texas, Virginia, Washington, and New York. I find it hard to understand why this state would have one set of policies for local governments and on the other end have a get out of jail free card for private corporations. If one party can't discriminate, no one should be allowed to discriminate if anything for continuity purposes.

According to the Insurance Information Institute, Pennsylvania and Michigan are the only two states that have laws prohibiting insurers from canceling or denying coverage based on breed though New York looks like it will be added to the list very soon. Maine could be a leader on this issue by joining the short list of states that believe in individual property owners' rights to purchase insurance.

According to Fox Business News, and yes I'm quoting Fox News, "On the risk scale, homeowners insurance companies view dog ownership somewhere between teenage drivers and swimming pools. Like [teenage] drivers, the group may be risky but individuals within it may not."

I'd go out on a limb and make the connection between being denied healthcare insurance due to pre-existing conditions which is no longer allowed by law and being denied homeowners insurance based on pre-existing aggressive traits of your dog's breed, not necessarily your specific animal companion's history. It is simply a matter of fairness.

In the Winter 2006/Spring 2007 edition of The Journal of Social and Ecological Boundaries published by the Texas A&M International University, an article sums up a different aspect to this very important debate when it comes to dog ownership: They say, "Breed discrimination by insurance companies negatively impacts consumers by increasing rates and causing involuntary insurance cancellation. In addition, sometimes people that are labeled as having a "high risk" dog breed may decide to get rid of their dogs when they are repeatedly blocked from obtaining insurance. This can have a serious negative impact for people who have strong bonds with their dogs. In addition, it contributes to the social and economic problems of companion animal overpopulation and the unnecessary euthanasia of dogs [in our] shelters."

Here are some of the breeds that are currently blacklisted by insurance companies here in the State of Maine: Pit bull terriers, bull terriers, Doberman pinschers, Olde English bulldogs, Rottweilers, German shepherds, huskies, Great Danes, Boxers, Saint Bernards, the list goes on and on. Yet a spokesperson for the Insurance Information Institute even said, "[t]he industry isn't positioned to determine which dogs should be deemed vicious [W]e're certainly not dog experts or veterinarians." And yet it seems to be okay to discriminate on that failed basis.

Here is the potential solution: Many insurance carriers reward drivers with lower rates after five years without an auto accident. They could similarly really reward dog owners after five years without a bite or other incident rather than carrying out blatant discriminatory policies. Now, I understand, like many others, that premiums might have to be increased if your dog has a history of violent aggression, but it should at the very least provide an opportunity for those to purchase the insurance. Those that don't have dogs with aggressive history should not be penalized arbitrarily. I urge you to vote against the pending motion and in support for ending property insurance discrimination. Thank you, Mr. Speaker, and I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I feel like I have risen a third time because, oh wait, I have. I am a dog person. That's what this is about. I mean, I'm a cat person too, don't get me wrong. I like the felines. I am about to move into an apartment with three. That's going to be a little scary. But I'm a dog person. I snuggle up with my little Roo at night, he's a handsome guy, and it really disturbs me that the German shepherds are on this list. While I do not have a German shepherd currently, my brother does because my family grew up with white German shepherds. Now, at some point, they were discriminated against because they were not considered pure breeds, and you know what that means, right? They are now AKC certified. How can we let Snoopy be discriminated against? Snoopy. This is what this is about. Are you a cat person? You can be a cat person and still be respectful of the dogs, but if you're a dog person, I have to tell you, stand up and vote in opposition of the pending motion because it is not the dogs that are the problem. It's the people. If you have violent people, you have violent dogs. If you have nice people, you have sweet, snuggly, cuddle up dogs that want to crawl up under the covers with you at night, and I think that's an important direction for our society to go because everybody is happier when they have some cuddles. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Fitzpatrick.

Representative **FITZPATRICK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. How many times recently have you seen the newspaper stories of pit bulls or other animals causing devastating damage to children, and every time, it seems, that you see these in the paper, it says, this dog never did anything like that before. It never acted irrationally. It never was mean. And it disturbs me to think that this is called discrimination. It's been actuarially proved and as far as the service dogs go, service dogs are not discriminated against because these are highly trained and, yes, typically they are the German shepherd breed or one of the so-called discriminated against breeds, but when they are highly trained, they are very functional and not discriminated against and the insurance companies have said so. So it's not discrimination, it's merely based on facts that the insurance companies have put together over a number of years and the number of cases that have happened like this, and I would urge you to support this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First of all, let me note that this Ought Not to Pass Report was 11-1. Secondly, let me note that the testimony in committee showed that there are a number of carriers in Maine that do not discriminate against certain breeds of dog. So the argument that the insurance is not available is simply not factually accurate. The dog owners apparently just didn't do their homework. Secondly, there is a review process, an appeal process, that's available to appeal these decisions, should denied be granted, to the Bureau of Insurance. In the few number of cases where appeals had been taken, all or nearly all of the decisions were in favor of the dog owner. Thirdly, there is evidence. There is a rational evidentiary basis for the decisions by some carriers to deny coverage based on breed. I mean, let's face it. Dogs are bred for certain purposes, whether it's the way they look, the way they act with

the family, whether they are bred to protect, whether they are bred to be hunting dogs, and the actuarial evidence on certain breeds of dogs is unequivocal. It's not so much that they are more likely to bite; all dogs bite given the appropriate provocation, but these dogs that are considered particularly dangerous bite with the ferocity that causes death and permanent disfigurement, and that is the danger that we have actuarial data for and that is why some carriers have decided that it's just too great a risk. If they are not allowed to take this into consideration, then rates will go up and no one will be the better for it. So that is why the committee decided as it did, 11-1. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker, and I don't apologize for rising a second time. With all due respect to my good colleague from Yarmouth, upon homework I found one insurance company that, on a case by case basis, might – might – take in individuals that have dogs that are on their blacklisted list. So I would implore you to look at your own insurance policies and I'm pretty sure that you wouldn't want to just have one, on a case by case basis, when we are talking about property insurance, when we are talking about the ability to purchase a home, having one company say, "Maybe we might give it to you." But having legal protections is why we're up here, so with all due respect, my constituents have done their homework and they are being discriminated against. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Morrison.

Representative **MORRISON**: Thank you, Mr. Speaker. Good morning, Ladies and Gentlemen of the House. I just wanted to throw a little bit of information your way. As you know, I am the only person who voted against the pending motion here, in order to give the good Representative a chance to argue his points here. But I do want to add a couple of things to the conversation. When I was a child, I had a Doberman pinscher growing up, and she was trained very well and was the most cuddling and loving companion I could have as a young child. So it depends on the person who owns the dog and not the breed itself. So keep that in mind when you are voting today. It's not necessarily, if it's a Rottweiler, it depends on the owner and how the owner treats that dog and trains the dog. You know, don't be afraid of the word "Rottweiler" or "Doberman" or whatever the evil dog of the day is. Just take into consideration the person who owns the dog first, and so just keep that in mind when you are voting today. And in South Portland, we have a huge dog owners group who respects and cares for a lot of the dogs, and these folks have really advocated for dog owners' rights and I want to be in strong support of them as well. I mean, I think these folks work really hard to educate and help folks all over the City of South Portland to make the pets feel a part of the family. So I just want to add those few things. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 146

YEA - Ayotte, Beaulieu, Bennett, Berry, Black, Bolduc, Briggs, Campbell J, Carey, Casavant, Cassidy, Chase, Cooper, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Devin, Dill, Dion, Doak, Dorney, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gideon, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Harvell, Hayes, Herbig, Hubbell, Jackson, Johnson D, Johnson P, Jorgensen, Kent, Keschl, Kinney, Knight, Kruger, Kumiega, Kusiak, Libby A, Long, Luchini,

MacDonald W, Maker, Malaby, Marean, Marks, Mastraccio, McCabe, McClellan, McElwee, McGowan, McLean, Moonen, Moriarty, Nadeau A, Nelson, Newendyke, Noon, Nutting, Parry, Pease, Peoples, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Reed, Rochelo, Rotundo, Sanborn, Sanderson, Saucier, Saxton, Schneck, Shaw, Sirocki, Stanley, Theriault, Timberlake, Turner, Tyler, Welsh, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Boland, Brooks, Chapman, Chenette, Chipman, Clark, Daughtry, Dickerson, Gattine, Hamann, Harlow, Hickman, Hobbins, Jones, Kaenrath, Lajoie, Libby N, Lockman, Longstaff, MacDonald S, Mason, Morrison, Nadeau C, Peavey Haskell, Russell, Short, Stuckey, Tipping-Spitz, Verow, Villa, Volk, Weaver, Werts.

ABSENT - Beaudoin, Beck, Campbell R, Dunphy, Kornfield, Monaghan-Derrig, Peterson, Rykerson, Treat, Wallace.

Yes, 107; No, 34; Absent, 10; Excused, 0.

107 having voted in the affirmative and 34 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The following item was taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass** - Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Local Input in Economic Development and Redevelopment Efforts"

(H.P. 1057) (L.D. 1476)

TABLED - May 28, 2013 (Till Later Today) by Representative HERBIG of Belfast.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OULD NOT TO PASS** Report.

Subsequently, Representative FREDETTE of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative **DAUGHTRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and in support of the Minority Report. While the economic impact of the closing of the Brunswick Naval Air Station has had an effect on the entire southern midcoast region and the entire state, the two host towns of Brunswick and Topsham have been the most affected by the loss. And the future of these two towns is intimately tied to the success of the redevelopment of Brunswick Landing. After all, Brunswick Landing is part of Brunswick; all 3,200 acres of it are surrounded by the town. And all of the Topsham Annex is within Topsham. So, naturally, we have the most direct stake in the redevelopment of this area. What happens to Brunswick Landing happens to Brunswick and Topsham.

Brunswick bears the biggest responsibility for the base. As the host community, we provide the basic services, paid for by the property taxpayers of Brunswick. If there is a fire at Brunswick Landing, there is no state or regional fire department

to call. The Brunswick Fire Department responds. If there is a traffic accident or crime, it is the Brunswick Police Department that responds. If a grant is needed, it must be applied for by the Town of Brunswick. If there is a Tax Increment Financing District to be created, it is done so by the Town Council of Brunswick. This property is part of our town; our property taxpayers provide the services for it. We bear the biggest responsibility for the base and, consequently, we have the most at stake. Once again, what happens to Brunswick Landing happens to Brunswick.

As the primary host community, shouldn't we have a voice in its redevelopment? Shouldn't we be a part of the process? Shouldn't the elected town leaders be able to have a representative on the board who can keep them in the loop, so that this can be an equal partnership? Just because an independent citizen of Brunswick happens to sit on the board does not necessarily mean that there is coordination between them and the town and the community. The relationship between the community and the base is direct, and in order to ensure the continued success of the region, this relationship needs to be open, transparent, and accountable. The Midcoast Regional Redevelopment Authority, or MRRA, board needs a perfect mix of private citizens with economic development expertise and direct advocates for the communities most affected by the ongoing redevelopment. This board and its efforts will have an impact on the shape of our community for generations to come. It is crucial that the two host communities have local representation on the MRRA board. To quote the Department of Defense's "Community Guide to Base Reuse," they say: Community leaders are essential to help ensure that the economic adjustment process, including base reuse, addresses the needs of the overall community.

Giving Brunswick and Topsham two direct appointees would fit perfectly within the Department of Defense's guidelines. We need to make sure that community leaders have a seat on the MRRA board. In fact, most of the base redevelopment authorities, in fact, almost all of the base redevelopment authorities have host communities give them a direct seat on their board. They are direct partners in this effort and we are the outlier. This bill is about making sure that home rule and local control are honored in the base redevelopment process. What happens at Brunswick Landing does impact the state but it impacts its host communities and surrounding towns the most. We need a balance of state input and home rule.

This bill would increase the size of the MRRA board by two voting members, from 11 to 13. These two additional seats would provide Brunswick and Topsham with the ability to directly appoint a representative to serve their town and create those communication channels. These two individuals would be direct advocates for our two communities. My aim is that by having two direct municipal appointees, it would help end any tension surrounding the MRRA board and help Brunswick and Topsham have a greater voice in the redevelopment efforts.

I also want to ensure that the board has accurate regional representation. Currently there are five members out of eleven from Brunswick, which is a large portion of the board. I would rather see Brunswick and Topsham have direct appointees as the host communities and then in turn have a greater diversity of representation from the surrounding affected communities. Harpswell, for example, is a community that deserves a larger voice on the MRRA board. This bill removes reference to counties within the Primary Impact Community definition. This focuses the PIC appointments to the communities directly surrounding Brunswick Landing.

I want to be clear that great things are happening out at Brunswick Landing. Businesses are coming to the area and

investing in their future in Brunswick and in Maine. We are very fortunate to have the Southern Maine Community College. Mölnlycke Health Care just opened up a beautiful facility that may one day employ over 100 people. Priority Group is making a major investment at Brunswick Landing. They will be opening several storefronts and investing over \$27 million dollars in development in and around Brunswick Landing. Priority Group also backs this bill and thinks that it's a necessary step to assist and streamline base redevelopment. We have a great opportunity here, and it is crucial that Brunswick and Topsham are partners in this effort and have a direct part in this development.

Recent media coverage suggests that there is growing tension between various factions involved with MRRA. I want to be clear. This bill was not intended to create any drama. My goal in drafting LD 1476 was to respond to the concerns of my constituents which they have shared with me and to foster a dialogue about MRRA and an open, productive path moving forward. We all want what is best for our towns and for the entire region and our great State of Maine, but the current configuration of the MRRA board is not succeeding in nurturing a productive dialogue. We need to open the channels of communication with all those involved by making sure that the host communities have a seat at the table. This is a piece of common sense public policy, and I see this bill as a way to bring peace to the valley. I urge you to take a stand for home rule today and communication and cooperation and follow my light in voting against the pending motion and for home rule. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. While soldiers, as MacArthur said, fade away, having served here now for five years, I find that bills and ideas do not. In the last session, I was involved in my first Committee of Conference over this same issue, and it's amazing that really not much has changed in it. This is still an issue that deals with home rule. It is still an issue that deals with taxation without representation. The principles that founded our country are still in place here, and I urge you to vote against the pending motion in the same method that was done before.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Plante.

Representative **PLANTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I will try and keep this short. I know what the good Representative from Brunswick speaks of and the importance of being able to represent your district, one which holds the majority of the Brunswick Landing location. I remember back years ago, I believe I was a sophomore or a junior in high school, when the Portsmouth Naval Shipyard was potentially to be shut down and I remember what could have happened with that location, what was going to actually happen with it if it wound up getting shut down? Was my father going to have to move down to Virginia and work? Was my family going to have to travel? And I know that if it got shut down, I would want something like the current Midcoast Regional Redevelopment Authority to exist, one that has obviously shown a lot of great growth and potential for the future. And as an outside voice, in terms of being from Berwick and the current Portsmouth Naval Shipyard being located in Kittery, the issue would have come down to if a bill like this came up, what would I have thought. I would completely understand where the people from Kittery would have been coming from by wanting such representation on the board for themselves, because it is indeed in their location. But the bill itself doesn't, I feel, properly

address, in terms of me being a Berwick resident and a number of people living in Berwick, whether or not they would have been able to have this solid a voice and as well heard a voice as those from Kittery. I can certainly understand where the good Representative from Brunswick comes from. I may very well be someone who would support it if I was to live in Brunswick or if I was to live in Kittery and these moments would come up to me and say "Where do you stand?" because, quite frankly, it's my location. It's where I live. I'd like to be able to have that voice to make sure that it was properly heard because it's where I live. But being from the outside, be it at the same time directly affected, unfortunately I would have to say I wouldn't support it completely based on the fact that I feel potentially I might not have as strong a voice. And in the future, we can look and see that what the Midcoast Regional Redevelopment Authority has done is already created some 200 jobs, more than a million dollars, roughly, in tax revenue, and we have the potential for more than 500 jobs to potentially be seen grown in the next three years at this location. I think that currently what we see is great success based on MRRA and I support the work it does, and, unfortunately, I must say I stand in opposition to the bill and I support the current motion. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Let me give you a little bit of a different perspective than the perspective you've gotten from the other Representative from Brunswick. The MRRA Brunswick Landing is entirely in my district so I do have some interest in this area. I do understand the tension between MRRA and the town council. I have served on the Brunswick Town Council. I was chair, twice, of the Brunswick Town Council. But I oppose this bill and let me tell you why. MRRA was set up to help the state recover from its annual loss of over \$140 million in revenues because of the closing of the airbase. The law setting up MRRA recognized that the loss was statewide and that it impacted the midcoast area most, from Androscoggin, Cumberland and Sagadahoc Counties, as well as the municipalities of Bath, Bowdoin, Bowdoinham, Brunswick, Freeport, Harpswell, Lisbon Falls and Topsham. The job of MRRA was economic development, to bring back the jobs lost by the base closing, that was its job, and this state, these previous Legislatures, did a number of things to encourage that. We made it a Pine Tree Zone. We allowed it to have an airport. It's a duty-free zone. We passed state bonds to upgrade the buildings there, to make them accessible so that they could be developed. You've got a Southern Maine Community College, which this Legislature has also supported, which exists on the base. The present board is composed of persons involved in economic development, nominated by the Chief Executive and confirmed by the Legislature. This bill would give the towns of Brunswick and Topsham the power to each nominate anyone they wanted to the MRRA without any confirmation by the Legislature. I am very concerned that that may lead to the injection of local politics into MRRA's economic development program. You all heard about the problem between the town council and MRRA with Kestrel. That caused a great deal of problem with economic development.

Now does the town council have the right to say whatever it wishes? Of course it does, but it has an effect on business attraction and having that kind of split on the board itself is going to have a detrimental effect on attracting business to the base. As well, appointments by Topsham and Brunswick, direct appointments, will leave other impacted communities such as Bath, Freeport and Bowdoinham to want their own appointments.

The end result is to convert the MRRA board into a board surrounded by people, by local town appointees, rather than a board of economic developers. MRRA has had a difficult task as the last BRAC round required most of the properties on the base be sold for fair market value. That was not the case with previous BRAC closures. Given that MRRA has brought 200 jobs to the base in the midst of the worst recession since the Great Depression, MRRA has done an admirable job. I would note this article from December 20, 2012, from MaineBiz. It says, "Of the 25 major ... bases closed by the Base Realignment and Closure Commission in 2005, redevelopment efforts at the former Brunswick Naval Air Station are far and away the most advanced. That's the assessment of Bryant Monroe, program leader for the Pentagon's Office of Economic Adjustment and point man for the federal government's continuing support of the Midcoast Regional Redevelopment Authority ..."

Now is Brunswick without any connection to the board? There is a liaison being paid \$50,000 a year whose job it is to liaise between the town council and MRRA. There are, as previously said, five persons from Brunswick on the MRRA. In fact, the Chief Executive just re-nominated Steve Weems who is an economic developer from Polaris Associates, who lives in my district, back to the board. There is no need for this bill and unfortunately I think it will cause mischief in the future, so I would urge you to vote against it. Thank you.

The **SPEAKER**: The Chair would remind all members to address the Chair with your remarks. The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I stand in support of Representative Daughtry's bill and I ask you to follow her light as she asked you. I was on that committee and I really wouldn't believe the large amount of people that came and testified for it, her bill. The only ones that were against it was a member from the other body and, as you just heard, one member from this body, and those are about the only two from their district that I heard speak against it. So I ask you to support her in this bill. Thank you very much, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Mastraccio.

Representative **MASTRACCIO**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to support the Majority Ought Not to Pass Report of the committee. I believe one of the biggest obstacles to economic development, particularly at the local level, can be political instability. The MRRA board is doing a tremendous job. I would love to have had that kind of economic development in Sanford during the recession that we've all gone through. Mr. Speaker, I would ask that the Clerk read the Committee Report, please.

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Mason.

Representative **MASON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the motion. As the speaker noted, I am the Representative from Topsham. This is not a partisan issue. I was on the board of selectmen prior to being elected to this position. My predecessor was a Republican who we've worked with on this issue. The previous speakers have given plenty of speeches on it. I'd like to address a couple of issues. First, there was talk about how this is important to have a regional approach, and there is no one that is disagreeing with that. In fact, the problem is, at this point, there is already five members out of the 11-member board that

are from Brunswick. So to say that we need to continue the regional approach kind of belies the fact that almost half the board is already concentrated in Brunswick citizens as it is, and this approach will allow the towns to have those dedicated seats, where they have property, that they have oversight of, and that would allow these other seats, when they come up for nomination, to be dispersed through other members of the community for nominations. There is also talk about how we have to be afraid because whenever you inject town politics into the process, it's going to do nothing but slow things down. I grant that they may have been true at the beginning when we needed to get this agency up and running. At this point, it's transitioned. The businesses are becoming in-filled. We actually have the business developers on board for this. The business community is asking us to have these seats because they recognize the importance of having a link between the towns that are providing services and are responsible for negotiating TIFs, working with the group that is developing this and the idea that having a liaison in the room is enough to solve that problem, again, belies the fact many decisions, as we know, are done in executive session. The liaison is not allowed in executive session. So this is allowing us, again, a chance to sit at the table and we're not saying that we have to appoint an elected official. We're just asking for the right and the opportunity to have somebody that the town can work with themselves, that they feel comfortable is going to be representing the interests of the town, because, as it is now, the citizens that are appointed don't have to have any connection with the town. We're saying, as a simple matter of fairness to taxpayers and the town, when money is getting spent on their behalf, we'd like a little bit of oversight for it. So for these reasons, I ask that you follow my light to defeat the motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. I rise in support of the pending motion. I can tell you why. I actually had a family member who served on this board, and on a board of this nature that has regional interests, you are in jeopardy of adding small-town politics into the board. You inject that and you actually hinder the performance of the board which, to date, has been fairly successful. In contrary to some of the previous testimony, having researched this through my military end of it, Pease and Devens, Fort Devens in Massachusetts, some of you may be familiar with, didn't do this with local governance. In fact, it was discouraged in order to keep it at a 10,000 foot level for the whole regional interest. So I would strongly urge you to support the pending motion because it's not broke, so not offering a solution to something that has no problem is something we probably need to avoid here. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Farnsworth.

Representative **FARNSWORTH**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **FARNSWORTH**: I am curious as to how the local community representation issue was handled with the Loring board, if anybody could answer that question.

The SPEAKER: The Representative from Portland, Representative Farnsworth, has posed a question through the Chair to anyone who may care to respond. Seeing none, the Chair recognizes the Representative from Belfast, Representative Herbig.

Representative **HERBIG**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. The Midcoast Regional Redevelopment Authority is one of the most successful

redevelopment efforts in the country, something we should all be very proud of. This is primarily because it has kept politics out of the process. Economic development is a difficult business. I think we all know that. LD 1476, despite its best intentions, opens the door to the influence of local politics and all its instabilities and distractions. The original statute was carefully crafted to maintain a regional focus, such that the Authority would focus on growing the pie as a whole rather than each individual community focusing on the size of their piece or their own individual interests. I urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative **DAUGHTRY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a second time. I just really want to hone in on one of the things that the good Representative from Farmington spoke about, which is taxation without representation. I just want to, once again, hone in on the fact that Brunswick and Topsham are directly tied to what happens there. We need to have a clear partnership. I'm not saying with this bill that we shouldn't have state or regional input. We should. We should have all of it. We should have local representation, state representation, regional representation. We should have folks with economic development on this board. And why am I so passionate about this? Not only is this my hometown, but as the good Representative from Belfast said, it is successful but we need to continue the success and move forward, and one of the reasons I am so passionate about this is the redevelopment of this base means the future of my town and also the future of my age group staying there. We need young people in their 20s and 30s to be able to move to Brunswick, to make their homes there, and to be able to live, work and play, and one of the key issues is making sure that the towns are part of this process which they are not now. This takes care of this. This makes a good step forward. This brings absolutely everyone to the table, to make sure that we can work together in the future, and to make sure that we turn this into a mecca, that people are moving to Brunswick, Maine, to make sure that they can carve their future out in the great State of Maine. This is exactly what we want here. So I urge you, please, this really is a big deal to my district and I know that there is a lot of tension around it, but all we're asking is just to be a part of the process. Take a strong stand today, vote for home rule in collaboration with state input and economic expertise. I urge you all to vote against the pending motion and follow my light. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 147

YEA - Ayotte, Beaulieu, Bolduc, Briggs, Carey, Chapman, Clark, Cooper, Cotta, Cray, Crockett, Davis, Dickerson, Dion, Dorney, Espling, Evangelos, Farnsworth, Fowle, Frey, Gideon, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Herbig, Hobbins, Kaenrath, Kent, Kumiega, Long, Luchini, Mastraccio, McCabe, Monaghan-Derrig, Moriarty, Morrison, Noon, Nutting, Peoples, Plante, Priest, Pringle, Rochelo, Rotundo, Rykerson, Sanborn, Shaw, Stuckey, Theriault, Weaver, Welsh, Willette.

NAY - Beavers, Bennett, Berry, Black, Boland, Brooks, Campbell J, Casavant, Cassidy, Chase, Chenette, Chipman, Crafts, Daughtry, DeChant, Devin, Dill, Doak, Dunphy, Duprey, Fitzpatrick, Fredette, Gattine, Gifford, Hamann, Harlow, Harvell, Hayes, Hickman, Hubbell, Jackson, Johnson D, Johnson P, Jones, Jorgensen, Keschl, Kinney, Knight, Kruger, Kusiak, Lajoie, Libby A, Libby N, Lockman, Longstaff, MacDonald S,

MacDonald W, Maker, Malaby, Marean, Marks, Mason, McClellan, McElwee, McGowan, McLean, Moonen, Nadeau A, Nadeau C, Nelson, Newendyke, Parry, Pease, Peavey Haskell, Pouliot, Powers, Rankin, Reed, Russell, Sanderson, Saucier, Saxton, Schneck, Short, Sirocki, Stanley, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Villa, Volk, Werts, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Beaudoin, Beck, Campbell R, Kornfield, Peterson, Treat, Wallace, Mr. Speaker.

Yes, 55; No, 88; Absent, 8; Excused, 0.

55 having voted in the affirmative and 88 voted in the negative, with 8 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative McCABE of Skowhegan, the Minority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

On motion of Representative DILL of Old Town, the House **RECONSIDERED** its action whereby it voted to **INSIST** on Bill "An Act To Provide Increased Opportunities on the Allagash Wilderness Waterway "

(H.P. 1325) (L.D. 1893)

Subsequently, on further motion of the same Representative, **TABLED** pending the motion of Representative EVES of North Berwick to **INSIST** and later today assigned.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The House recessed until 4:30 p.m.

(After Recess)

The House was called to order by the Speaker.

The following item was taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-106)** - Committee on **JUDICIARY** on Bill "An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device"

(S.P. 157) (L.D. 415)

- In Senate, Minority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-106)**.

TABLED - May 28, 2013 (Till Later Today) by Representative **PRIEST** of Brunswick.

PENDING - Motion of same Representative to **ACCEPT** the Majority **UGHT NOT TO PASS** Report.

The **SPEAKER**: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill, LD 415, is one of several bills which attempt or say that they are going to extend privacy beyond where it is now. In this case, the bill requires a warrant to get historical cell phone locations and requires law enforcement to notify the cell phone's owner that he is being investigated. This goes against longstanding federal and state practice. If state law enforcement wants to have current cell phone locations or wants to know the content of any phone conversation, law enforcement must get a warrant. To get a warrant requires that law enforcement show by a probability that is 51 percent or better that the information sought is evidence of a crime or was intended to be used in the commission of a crime. That's current law. That's current law. That's what our law enforcement people do. But when law enforcement begins an investigation, it does not have enough information to get a warrant. For example, if someone in a crack house has thrown away a cell phone bought in a drugstore, you may not know who the owner or user of the cell phone is. You may not know that it was intended to be used as a crime or that the historical location information is evidence of a crime. You may not know these things. That's why you are doing an investigation. So law enforcement normally must begin an investigation using historical location data. That is data from the past. Not data from the present, not the contents of the cell phone. That is location data from the past. It does so by going to court and getting a court order based on the facts showing that the historical cell phone information is relevant to an ongoing investigation. This order is to the cell phone company to give law enforcement historical location data. The investigation may take many months. It may take years. To require notification to the cell phone's owner or user three days after identifying him or her can void the investigation as the suspect may flee. Even if the time for the notification is extended to 180 days, there still may be an ongoing investigation which will cause a suspect to flee if he knows about the fact that he's being investigated.

Location information can also be used in the early stages of an investigation to clear innocent persons. To require a warrant with its requirement of probable cause before historical data can be gotten can leave innocent people in limbo while the investigation proceeds until probable cause can be shown. This practice has been followed for over 26 years. We heard no complaints about this practice in Maine. We heard no specific complaints given to the Judiciary Committee. Getting historical location data from a third party cell phone carrier is a little different than getting bank records from a third party bank in the course of an investigation. The requirement for a court order to get historical data prevents fishing expeditions on the part of law enforcement. You've got to go to court and you've got to show that the information you're seeking is relevant to an ongoing investigation. In sum, there is no demonstrated need for this bill. We were shown no other state that had enacted this type of bill. Enactment of this bill will seriously hurt law enforcement investigation of drug conspiracies, child pornographers, cold case murderers and domestic violence. In fact you can extend the notification provision up to 180 days and beyond that, you begin to wonder what the point of the notification provision is, and if you insist upon a warrant instead of a court order showing relevance, if you insist upon a warrant, you're going to make investigation

very, very difficult. Again, there is no need for this bill. The current practice is perfectly adequate and fully protects people. I urge you therefore to follow my light and vote for the Majority Ought Not to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Friendship, Representative Evangelos.

Representative **EVANGELOS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'd like to remind people of Amendment Four in our Constitution, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The problem we have is that technology has moved so fast and the idea that we can put absolute trust in law enforcement, just three weeks ago was obviated when the Justice Department secretly seized two months of telephone records from the Associated Press of over 100 different reporters. The Constitution's Fourth Amendment is there for a reason. It supersedes the change in technology. And I will be voting in opposition to this motion and hope that people will consider the amendment. We have to stand for the right of privacy. This technology has moved so fast. We have drones flying overhead and the idea that law enforcement is going to act to protect our privacy has been proven wrong, time and time again. So I urge you to vote against this motion and to protect our Fourth Amendment rights. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Carey.

Representative **CAREY**: Thank you, Mr. Speaker. Mr. Speaker, this cell phone information, location information is a powerful, powerful tool. It has been suggested that it is analogous to bank records. Remember, intelligence agencies for our country found Osama bin Laden by tracking the location of his cell phone. This bill preserves emergency government uses of location data and otherwise requires a warrant. It has been said that the practice in Maine is all ready to go to court. That may be true. The standard is different than probable cause and more basically, as the Representative from Friendship pointed out, the framers spoke to this 200 years ago. Probable cause is the standard if individual privacy is going to be hurt. Imagine if we were 40 years ago and somebody came and said to law enforcement "There is a device that most everybody will carry and you will be able to go to a third party and say 'Give me the historical information for where that person has been for the past six months, 18 months, the exact coordinates by triangulating two cell phone towers, but there's a catch.'" So law enforcement says, "Okay, so what's the catch?" "The catch is you have to follow the rules that you've followed for over 150 years." That's all we're asking here.

Now why are we here, why are we doing this today? The governing law in this area is the Electronic Communications Privacy Act which was passed in 1986. Remember the first cell phones that people were starting to use that were around in 1986. They were generally carried in small briefcase size bags. It has not been updated since then, and at that time a PC in our homes was 10 to 20 megabytes. My iPhone has 1,000 times that capacity. It is the combination of that capacity with this new technology that really is a game changer. When I click on my phone's privacy option, I can turn on location services and from that information, it tracks my location. Google maps, the camera, compass, internet browser, AP Mobile, bostonglobe.com, Facebook, banking applications, they all want to know where I am when I am using their application, if I turn it on. It is powerful,

powerful information. In 2011, a German politician sued his cell phone company to obtain exactly what information was out there. They had, in a six-month period, that company, using technology that is no different than the technology that most of us carry in our pockets, had tracked his exact coordinate location, longitude and latitude exactly, more than 35,000 times. This information is powerful and the fact that it's powerful increases the value of privacy so much more. A New York Court of Appeals judge wrote recently that technology may reveal information of "an indisputably private nature." A trip to the psychiatrist, a plastic surgeon, the abortion clinic, the AIDS treatment center, the strip club, the criminal defense attorney, the by the hour motel, the union meeting, the mosque, the synagogue, the church, the gay bar, and on and on and on. Absent a warrant, such information is not the business of government. This bill provides an important step to protect the privacy of Mainers. The law provides a path for a warrant to enable law enforcement to protect us and to use modern technologies that were not available 40 years ago. They must simply meet the same tests they've always met, probable cause. This bill, if we defeat the present motion, will protect safety and liberty. Mr. Speaker, I call for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Freedom, Representative Jones.

Representative **JONES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I beg to respectfully disagree with the good Representative from Brunswick. As the Representatives from Friendship and from Lewiston pointed out, rapidly developing technologies create rapidly developing challenges for governments and courts to recognize the threats that these new technologies pose to civil liberties and personal privacy. One of the biggest current threats is the dramatic increase in the government's use of location information gained from cell phones and other electronic devices. There is a surge in law enforcement requests for cellular phone data. As a result of Congressional inquiry, the largest wireless phone providers admitted that in 2011 they received 1.3 million requests for user cell phone data. Now, we don't have any figures that let us know what the data are for Maine. And we do not know how many of these requests only involve specific location information. But what we do know is that over 250 different local law enforcement agencies admitted using location information, oftentimes without a search warrant and with different legal standards.

LD 415 is a sensible law which proposes needed oversight. Also, LD 415 follows the lead of the U.S. Supreme Court's 2012 decision, ironically, the *United States v. Jones*, which ruled it was unconstitutional for police to install a GPS device on a car without a search warrant. While a landmark decision, given today's rapidly evolving technological changes, its emphasis on GPS tracking is already outdated. GPS tracking is no longer the only – or even the easiest – way for law enforcement to collect data on when and where a person has been. Cell phones, especially web enabled so-called "smartphones," create a location, as the good Representative from Lewiston pointed out, create a location data trail throughout the day as they ping cell phone towers. And it's not just cell phones; tablets and mobile apps are increasingly logging every step we take. This data provides law enforcement with a powerful investigative tool for solving crimes, a tool it should be permitted to use to help keep people safer. But given how extraordinarily sensitive this information can be, judicial oversight is necessary to insure that law enforcement's access to this information is justified.

In his concurring opinion in the Jones case, Justice Samuel Alito noted that a "legislative body is well-suited to gauge changing public attitudes, to draw detailed lines, and to balance privacy and public safety in a comprehensive way." I would argue that LD 415 does this. This bill gives law enforcement access to this information by simply requiring, obtaining a warrant issued by a judge, and it does indeed contain common sense exceptions. You know, there has been a recent push in both federal and state legislatures to strike the delicate balance between allowing law enforcement access to effective investigatory tools while protecting the public's privacy rights. With LD 415, Maine has the chance to be a national leader on the issue of location privacy, properly balancing security and privacy, and letting the country know that the Fourth Amendment is indeed alive and well in the great State of Maine. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Mr. Speaker. Mr. Speaker, Distinguished Members of the House and the rest of us. I rise today in support, ironically, of the pending motion. As a small government civil libertarian, member of the Federalist Society, I have always supported the Fourth Amendment and when this bill first came before our committee, the Judiciary, I was naturally inclined to support it. The problem is when you get into the technical aspects of what this bill is going to do, so I had to have it explained to me in very graphic terms, just short of using crayons and paper. So if you have a cell phone and the government wants to live track you, they have to have a warrant. If they want the content of your conversation over the phone, they have to have a warrant. If they want your text messages, they have to have a warrant. But under law, they only need reasonable articulable suspicion to find out where your cell phone has been historically, and so you ask yourself "Well, why don't they just have a warrant for that?" That's the question I asked on committee. Well, let's use an example. If there was a drugstore robbed, oxycodone, right here in Augusta, and there was a grainy picture and it looked like me and the police officers came and said, "Representative Crockett, where were you on such and such day?" I said, "Oh no, I was chopping wood back in Bethel." Well, they don't have probable cause to get my cell phone historical data where I was located on that day. Well, under current law, the reason articulable suspicion, they would be able to get that data and if I wasn't at the drugstore robbery, well, then, I've just confirmed my innocence. So it's pretty obvious that the problem is you can't have probable cause in some of these situations, so you mess up the investigative process and this investigative process has helped us find a murderer in Old Orchard Beach who killed her husband, has helped us find the girl in Glenburn, has helped us find the Boston bombers. And while I am completely supportive of the Fourth Amendment, obviously, having sworn our allegiance and faith to the Constitution on several occasions, there are some technical problems here. We're going to hinder law enforcement to the point where, now, the criminals will get away. Now, there is going to be other bills regarding drones and game cameras that we have some flexibility on, but this one, if passed, is a serious hindrance to investigative process. There is also some technical problems with it. You could have federal agents working in the State of Maine working off one set of rules, whereas our own police officers we will have handcuffed, meaning no irony in the statement, in their investigative process. So there is technical issues with it. There is practical problems with it. At this point, the way it's written, I couldn't support it, so I would ask that you support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Russell.

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Several years ago, I was watching C-SPAN and I happened to be living in Washington, D.C., in Capitol Hill, at the time, and I was watching C-SPAN because there was this debate, there was a rather esoteric debate around warrantless wiretapping and it was actually about retroactive immunity. Let's just take esoteric and square it with cerebral. So I decided that I was four blocks away from the U.S. Senate, so I should go down there since I was so rapt by this, and it was fascinating because it was a filibuster. Senator Dodd and Senator Feingold were filibustering retroactive immunity for the telecommunications companies that had been involved in warrantless wiretapping by our country. Why is that important? It was important then to be there and it was an important enough of an issue that I did not believe that we should be providing retroactive immunity for companies that had been spying on Americans without warrants. They had chosen not to go through a particular court system that was a super-secret court system and a very simple court system. Today, we have before us an opportunity to create a process to require a warrant for location tracking. Now, if one thinks a wiretap in here where people are talking about and one could argue that it is a different thing to know where someone is, but there are places that some of us go that, you know, sometimes going to the dump is not really a big deal. Nobody needs to know that and, you know, if someone knew where I was, I probably wouldn't be super excited, but there are other places I might want to keep private and I don't necessarily need the law enforcement tracking me at every single point.

The other part of this is that if an officer wants to search my home, I have the right to require a warrant. If an officer wants to search my car, I have the right to require a warrant. The Supreme Court recently came down and said that if an officer wants to put a GPS tracker on a car, they must have a warrant. So why is it that the law enforcement must have a warrant for tracking your motor vehicle that you're not in most of the time, all the time, but they don't necessarily require probable cause and a warrant to retroactively know where you were at any given point with your cell phone? Most of us do keep our cell phones on us. It tracks exactly where we've been at any given point in time of the day. It's kind of scary that someone can step in and look at that. I believe that it's our responsibility to ensure that the Fourth Amendment is upheld to ensure that we request and require a warrant, that we require probable cause. In fact, it is the very foundation of our criminal justice process. If we begin to start chipping away and just say, "Ah, the technology has changed, the Constitution hasn't really kept up. It's okay to carve this out; it's okay to carve that out." What does that say about the overall fabric about our civil liberties in this country? It was not okay, in my humble opinion, to provide retroactive immunity to wiretap Americans. It was not okay to wiretap Americans in the first place without a warrant. And I don't believe that it's okay or right under the U.S. Constitution to not require a warrant, to check in on where someone has been and to use their cell phone, the one thing that we all tend to continue to carry with us, use our cell phone against us without a warrant. At some point, our civil liberties, there is a line that gets crossed and we do not get to cross that line, we do not get to cross back over that line. And Senator Dodd said something on the floor of the Senate that day that really caught my attention and he said, "You know, people say, why this line? Why does this line matter? We've crossed so many lines, why this line?" This line is the fundamental cornerstone of what keeps our justice system intact in this

country. It is the cornerstone of what protects our civil liberties. So it may seem like a gray line, it may seem like a small line, but I do believe that it is an important line and I will be voting in opposition to the pending motion because I believe that we're better than this and I believe that a warrant should be required. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative **COOPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise also in opposition to this report. The Fourth Amendment is not a complicated part of our Constitution. The test is very simple. It's something that we can all apply in our minds. Do we have an expectation of privacy in whatever situation is being invaded, whether it's your house, whether it's your car, whether it's your whereabouts, and we must remember when we are evaluating whether you have an expectation of privacy that this amendment, like all the amendments that protect the rights of criminal defendants, is intended to protect not just the guilty but more importantly the innocent. It has to do with you and your family and your children and everybody you know, whether or not you feel comfortable about the government having the ability to track your whereabouts for every moment of the day and night. Do you have an expectation of privacy that that should be allowed without any meaningful court review? And it's been said here that, yes, you have to have a court order, but the court order is a requirement without meaning in this instance, since the law that established that requirement established really no standard for review. It's not reasonable cause. It's not probable cause. It's something very vague and it's been used for thousands and thousands of instances without any evidence submitted to the court whatsoever. So I ask you not to determine whether or not this is a useful tool. Of course it is, of course it helps the police, and I do not doubt that crimes have been solved by using this tool. But a big brother government also has very useful tools, but we don't want to become that kind of society. We want a kind of society in which we can go our way without fear of being watched when we've done nothing wrong, and that is the test that we must apply in this instance. Thank you.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Guerin.

Representative **GUERIN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition of the pending motion. Serving this year on the Judiciary Committee, we have heard many bills related to new technology. It is now time to protect our freedoms in areas that would have been unimaginable 15 years ago. Through the past several years, we have seen an astonishing increase in sophistication of technology which permits the government to conduct surveillance into the most private corners of our lives. Cell phone location tracking is an extraordinarily powerful new surveillance tool. One's location data creates both historical and real-time maps of a person's movements and can reveal strikingly personal information. As Judge Ginsburg of the U.S. Court of Appeals for D.C. Circuit recently wrote, one's location might reveal whether he is a weekly church goer, a heavy drinker, a regular at the gym, an unfaithful husband, an outpatient receiving medical treatment, an associate of a particular individual or a political group – and not just one such fact about people, but all such facts. I, without hesitation, support the Fourth Amendment which clearly states "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause" Thomas Jefferson said the price of freedom is eternal vigilance. In our generation, the

vigilance we must apply is the vigilance for new technology that did not exist in Thomas Jefferson's day. Please join me in voting against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I can start with my first experience of a cell phone ping. I worked shiftwork at the mill, got off in the morning and went to bed. I should predate this by saying a week earlier, my wife and I had bought new cell phones and the old cell phone had become the toy of my daughter, who was in fourth grade. She's not supposed to take this to school by the way. But I go to bed, I wake up and there is answering machine messages everywhere "This number, did you call 911?" What, I've been asleep. So anyway, then I go over to the other answering machine and there is a message from the Mallett School "You need to come to school. Rachel is in trouble." So I go to school. Well, one of the things that you can do with a discontinued cell phone is dial 911 and her and her little compadre gang there had made a little game of it and the police officers had pinged the cell phone, found out it was at the Mallett School, found out that they are looking for a name of a Harvell at the Mallett School, quickly found the little gang there and had them waiting. But they can already, under this bill, with 911 situations, they can do that. This bill is merely bringing all of the standards that are already there into compliance. The Fourth Amendment doesn't say that you can be right to security and your papers until technology mandates otherwise, and the reason that the founders wanted this is because there had been a point in time in their lives when they hadn't been secure in their papers and they wanted to be secure in their property and their papers. If you get a warrant and you want to know where somebody is, you get the warrant, you just back check where they have been or where their cell phone has been and you can find out. Last week, had they pinged me, they would have been finding out that someone never moved from this chair for about three hours, whatever use that would have given me. You know, what if you have a photograph or a camera or a diary suggesting where you have or have not been? We didn't say it because that might be able to prove your location and discount you for a crime or not a crime, that those items are now available. I don't think so. The Fourth Amendment is there for a reason and this is not unreasonable. It's the same thing, if they believe there is immediate physical injury, they can act, the same that the *Mapp* decision says if you hear a fight going on and you believe there is an imminent problem, you can enter, you know, you don't need a warrant. If a family, if I'm lost in the woods and my family hasn't seen me for days and I've gone off hunting, my family can give them the right to check that cell phone under this bill. It's not asking anything unreasonable at all. It's merely saying let's bring, as the good Representative from Lewiston said, this technology into the 21st century and make the Fourth Amendment apply to it as well, and I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dion.

Representative **DION**: Good afternoon, Mr. Speaker, Ladies and Gentlemen of the House. I can't help it. I've been taking notes through this debate. Bring three lawyers together and you're sure to get five opinions. It's pretty much the way this is going. I have thought about this bill. We've heard about bank records. There is this idea in Fourth Amendment law and I was probably a slower student so I can't concede to my good colleague that it's simple and easy to remember the Fourth Amendment because it's filled with rules and doctrines and expectations, and one of those is a third party doctrine. It's

simple on its face that if you provide a third party, a bank, with certain information, you assume a certain risk because that party may be compelled to disclose those private records to the government, so just bear that in mind for a moment. I'd like for you to pull out a piece of paper and write down the word "consent" and next to it say "no warrant," and then write down "no consent" and next to that say "get a warrant." I want you to bear that in mind for just a moment because this proposition isn't about reasonable expectation of privacy. I think the law adequately addresses that. If I want to know some record of yours, whether it be digital or tangible, I need a warrant. I don't think there is any argument about that. If I want to put a GPS device on your vehicle through some surreptitious police conduct, no problem, get a warrant, put it on, get your information. What's really at play in this particular bill is the idea of a digital signature, that somehow we're so comfortable with cell phones that we don't recognize that every moment it's on, it provides a signature and a technology that is beyond our consciousness when it's occurring. That's what's in play.

Now if you look at that signature, you have to ask yourself "Did the citizen give consent for access to that signature?" Going back to my earlier suggestion, if there is no consent, get a warrant. It's really that simple. This is not a complicated case. What we really want as a government is for the police to quickly and easily access digital signatures from one tower to another. They can get warrants for everything else. Listen, in 32 years, I had not one warrant rejected when I applied for one, and I'm not particularly bright. I'm methodical, but there are smarter men and women that I've worked with. And the one that was rejected, the magistrate said, "Mark, you are this close." I didn't know there was "this close" in probable cause. But he is the one that taught me a simple idea that's been lost here. The Fourth Amendment doesn't exist to protect our rights, it exists to restrain the government and if in the exercise of the Fourth Amendment, the government is somehow inconvenienced, that's not the issue, all right? It's not a bill of rights, it's a bill of restraint on government conduct and I suggest to you that the warrant requirement is not that burdensome, but the question for you surrounds what you feel around this idea of a digital signature. The founding fathers could not conceive of that, but they did conceive of and protect the idea of consent and in any circumstance where the police have contact with a citizen and the issue of consent is in play, a warrant is required, and that's what I would tell a young officer today. You'll hear great Supreme Court justice speeches today, but at the end of the day, this case is about consent and do we protect a citizen's right to consent, and if you do, you'll support the Minority Report, and if you don't, then consent has begun to be eroded in this chamber today.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Hickman.

Representative **HICKMAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As a cosponsor of LD 415, "An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device," I rise in strong opposition to the pending motion. Benjamin Franklin wrote, "They who can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." In other words, the ends do not justify the means. The ends do not justify the means. The ends do not justify the means. The Fourth Amendment demands that the government respect your privacy and do its job before searching you anywhere you are in the world. Please vote against the pending motion. Please vote to uphold a central liberty for your constituents and for yourself. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Moriarty.

Representative **MORIARTY**: Thank you, Mr. Speaker. Good evening, Fellow Members of the House. I rise to join the remarks of my colleague, Representative Guerin, who sits with me as a member of the Judiciary Committee and with whom I voted in the minority on this issue. I think it's safe to say that for the entire duration of the history of our country, there has been a conflict or tension between the needs of law enforcement and the personal expectations of privacy. I consider that tension to be healthy. It has compelled us over the decades and centuries to continually reexamine and reaffirm our fundamental constitutional rights in the face of evolutionary changes in law enforcement and in societal values. As law enforcement techniques and capabilities have evolved over the years, our constitutional interest in personal privacy has endured and has been underscored time and time again. Volumes have been written on the subject. The fact that appellate courts in this country, from the highest level on down, still to this day continually issue opinions on the meaning and interpretation of the Fourth Amendment demonstrates that this is and remains a dynamic and central issue in the American legal system and in American culture. It seems to me that any doubt about the propriety of a particular law enforcement technique ought to be and must be resolved in favor of preservation of constitutional rights. I sense from the tone of the debate tonight that we are at a constitutional level and we're not really talking about the details of the bill and that's perhaps just as well, but I would assure or offer some assurance to my fellow members that the bill deals only with location information and not the content of information which would require a warrant beyond any question. There are provisions in the bill for the emergency use of location tracking techniques without a warrant. There are provisions for a 180-day delayed notice to the individual whose device is being tracked which can be extended one or more times upon a proper showing by the law enforcement agency. Whatever information that is obtained through tracking must be turned over to the defendant prior to trial. There are multiple protections in the bill as drafted, but the fundamental protection is that of preservation of one's personal privacy interests under the Fourth Amendment. I urge the body to vote no.

The SPEAKER: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be very, very brief. No other state has this requirement. This state follows federal laws and if a change needs to be made, it should be done at that level. We hear frequently that we do not want to be outliers. This would make us a significant outlier, no other state as far as I know. I have to speak. An individual who has been prosecuting murder cases for many, many, many years, this would completely hamper the ability to fairly prosecute cases, though I think that it's important that we recognize that we would be the only state to do this. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I also rise as a member of the Minority Report and Representative Jones alluded to the U.S. Supreme Court decision which was *United States v. Jones* from last year, in which the court ruled that police cannot put a GPS device on your car without a warrant. It's a nice ruling. It was unanimous which is very encouraging, but it's already obsolete because they don't need to put a GPS on your car because you already have one on your phone, or at least a lot of

us do. The court unanimously held that that was not okay and they also had two concurring opinions that made clear that they perceive a lack of clarity, both from state legislatures and from Congress, about the application of the Fourth Amendment in relation to new technologies. Well, they perceive a lack of clarity from Congress because the Electronic Consumer Protection Act has not been updated since 1986, long before we had GPS commonly used, before we had cell phones commonly used, and before we had GPS on cell phones commonly used. We can't really do a whole lot about that. Congress isn't passing a lot of bills these days, although I would like them to update that law, but we can do something about the lack of clarity that they perceive from state legislatures. We can give them some clarity about privacy in relation to these new technologies. Finally, I would just say that the Representative from Lewiston alluded to someone who sued for his own location information and found that it had been tracked 35,000 times in six months. That is 200 times per day, roughly. I would ask you to think about what your constituents would want on this issue, because I don't believe that they would want the government to be able to track them 200 times, per day, without a warrant. So I ask you to oppose the pending motion and support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Dickerson.

Representative **DICKERSON**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **DICKERSON**: Thank you. I'm a little foggy on how the notification system is working here. I've read a number of things and I understand that if someone – and of course anybody can answer this – if somebody is being tracked or if a cell phone is being pinged off a tower because it's not GPS, then how soon after that tracking begins to happen does the individual have to be given notice? So this is a two-pronged question. How soon does the notice come and number two, if the person is under investigation for a crime, do they still get notice that they are being tracked for a crime?

The SPEAKER: The Representative from Rockland, Representative Dickerson, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: The answer, as I understand it, is initially three days and you can extend that. You can go to court and extend it. You can extend it to 180 days and you can extend that further, but if you don't extend it, then after three days you have to notify the person that is being investigated for a crime. That's what the bill says.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Moriarty.

Representative **MORIARTY**: Thank you, Mr. Speaker. As I read the bill, and I think this is clear that when the government initially applies for the warrant, it can request a 180-day extension of the date by which it must notify the individual whose cell is being tracked. So there is no initial three-day notification requirement, unless you don't have the presence of mind to request for 180 days delay. At the end of the 180 days, or before that period expires, you can request another extension and yet another. There is no limit. However, when the final extension expires, you then have three days in which to notify the individual whose device has been tracked.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Mr. Speaker. I just remind this chamber that no Maine court has required a warrant for historical cell phone data. For current tracking, yes. For

contents of a cell phone, yes. But for historical data, no. No state has adopted such a law. Maine would be the first with all of the complications that that entails. The Attorney General has said that this will harm investigations. She has made that very clear. A reminder is to get historical cell phone data, you have to have a court order and you have to show that the data you're seeking, location data, is relevant to a current investigation. It's not a situation where you can go fishing for cell phone data. Law enforcement is trying to solve crimes here, not spying on us all. And as to what your constituents want, I think constituents, as always, would want a number of things. Do they want privacy? Of course. But do they want crimes solved? You bet, and when the crimes can't be solved because of this law, you'll have to think back on what you're doing. I urge you not to pass this bill.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 148

YEA - Beaulieu, Bennett, Chase, Clark, Crockett, Doak, Fowle, Gillway, Goode, Graham, Grant, Johnson P, Kaenrath, Lockman, Mastraccio, McCabe, Nadeau A, Nutting, Parry, Pease, Priest, Sanderson, Weaver, Welsh, Werts, Willette, Winsor, Mr. Speaker.

NAY - Ayotte, Beavers, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Campbell R, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Cotta, Crafts, Cray, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Frey, Gattine, Gideon, Gifford, Gilbert, Guerin, Hamann, Harlow, Harvell, Hayes, Hickman, Hobbins, Hubbell, Jackson, Johnson D, Jones, Jorgensen, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mason, McClellan, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Noon, Peavey Haskell, Peoples, Plante, Pouliot, Powers, Pringle, Rankin, Reed, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Short, Sirocki, Stanley, Stuckey, Theriault, Timberlake, Tipping-Spitz, Turner, Tyler, Verow, Villa, Volk, Wilson, Winchenbach, Wood.

ABSENT - Beaudoin, Beck, Casavant, Fredette, Herbig, Newendyke, Peterson, Saxton, Treat, Wallace.

Yes, 28; No, 113; Absent, 10; Excused, 0.

28 having voted in the affirmative and 113 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

Subsequently, on motion of Representative McCABE of Skowhegan, the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-106) was READ** by the Clerk and **ADOPTED.**

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on Bills in the **Second Reading.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-106)** in concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Require Public Hearings by the Legislature To Be Recorded and Posted on the Internet"

(H.P. 244) (L.D. 339)

Signed:

Senator:

COLLINS of York

Representatives:

GRAHAM of North Yarmouth

BOLDUC of Auburn

COTTA of China

HAYES of Buckfield

MacDONALD of Old Orchard Beach

NADEAU of Fort Kent

PEASE of Morrill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-228)** on same Bill.

Signed:

Senator:

LACHOWICZ of Kennebec

Representatives:

BOLAND of Sanford

CHENETTE of Saco

NADEAU of Winslow

READ.

Representative GRAHAM of North Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative **BROOKS**: I'm not sure if I've jumped the gun or not, Mr. Speaker. I apologize if I did. I was immersed in sorting my bills here. I think that this bill is a good idea, even though the fiscal note is not. It was a bill that I sponsored and brought to the State and Local Committee in order to be able to take care of what I think is a gap in the system. If you all know, if you have all looked at the internet when you are sitting around the house not having anything to do and you just haven't had your daily fill of the Legislature, you know that the committee operations, if you don't happen to be on that committee, are on the internet and you can listen to and sometimes watch things on the internet. When that's over, the material just goes away into some cloud, though I don't always understand what they mean by cloud. If someone is wise enough to provide a piece of written testimony, then that written testimony can be presented to you over the internet or through the committee at some future time, but any verbal testimony that is given is lost in space. I think that's really a problem and should be fixed. There should be an archive out there somewhere where this information is either stored or retrieved or captured, and it seemed to me at the time that I presented the bill, that it wasn't going to be a big deal and that instead it probably should be captured with a device that is used often in law practices and other things that would capture the information, transcribe it, and we'd be able to retrieve it somewhere down the road. I'm not absolutely certain that the fiscal note that was put on it is real. I think it calls for \$100,000 or more, or maybe even a million, in the first year and something else after that. I happen to know that the Maine State Library has

received a grant and I've been trying all day to get a hold of the librarian just to get a confirmation that this wouldn't work. But if it would work, it seems to me that grant was for archiving legislative and state documents. I would hope that we would not vote Not to Pass. I would hope you would not follow that motion. Folks who are out there and want to know what's going on are in fact complaining to me that you can do it on the day of the hearing of the bill, but you cannot do it a day later, or an hour later, because again, that verbal transcript is gone. So I ask you to vote against the Majority Ought Not to Pass Report, so that we can salvage it and move on. Thank you, Mr. Speaker, and I apologize if I was out of order.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As a former journalist, I am in full support of this bill and against the pending motion. This is about opening up the process to people that can't listen to the live audio feed during the day. I don't know about you, but listening to my constituents back in my district, they don't have time to listen to our great public hearings in our committees during their busy workdays. So all this bill does is open up the process so that basically it's a sunshine bill. It allows people to see what we're doing behind the scenes. It opens up government. Now, I'm told that \$120,000 for a setup cost and \$12,000 a year to keep this system up is too much. I'm sorry, Ladies and Gentlemen of the House, but that is a price worth paying for openness in our government and transparency. Send this to Appropriations to find where that money comes from. I'd be happy to suggest some alternative cuts in order to pay for it because I think it's worth it. I think this is worth for ensuring that our citizens know exactly what we're doing every hour of the day, so when they come back from working their hard days in Maine, they can find out what was decided on in a particular bill, who came to committee and who said what. So I really do believe that we should be archiving the live audio feed. Now, it also mentions that we are getting a ...

The SPEAKER: Will the Representative defer? The House will be in order. The Representative may proceed.

Representative **CHENETTE**: Thank you, Mr. Speaker. I will wrap this up. So \$120,000. We get an initial startup fee, yes. But it's not just for the live audio feed. Once the cloud system is in place, we can actually tap into this system so down the road, if a future Legislature wants to, let's say, archive our live video feed from this chamber, they could do that using this new cloud system. So this isn't just about the live audio feed of the public hearings. This is about laying the foundation from a technological standpoint of ensuring openness and transparency. So I will leave you with a quote from the Dalai Lama that really sums up why you should vote red on this pending motion and in support of the Minority Report. "A lack of transparency results in distrust and a deep sense of insecurity." Thank you, Mr. Speaker, and I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Deer Isle, Representative Kumiega.

Representative **KUMIEGA**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **KUMIEGA**: Thank you. Is there anything that prohibits this from happening now if the funds were available or if some other entity outside of State Government wanted to record

and archive proceedings?

The SPEAKER: The Representative from Deer Isle, Representative Kumiega, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: I'm not sure that I fully understood the question, Mr. Speaker, and thank you very much. But as far as I know from the research that we did, there were two or three of us working on the preparations for this bill that there is no other way to get this, unless we just simply go ahead and fund it ourselves. The IT Department in the Legislature did come down and testify about it and told us that that would be the problem, that it's not currently available and the price tag would be fairly hefty. Mr. Speaker, may I continue?

The SPEAKER: The Representative may continue if you are answering the question.

Representative BROOKS: I am not answering the question. I wanted to proffer more testimony, Mr. Speaker.

The SPEAKER: The Representative may proceed. This is your second time speaking.

Representative BROOKS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for getting up here and speaking a second time. As I mentioned before when I was speaking, I would love to be able to have an opportunity to speak to the Maine State Library librarian about this issue and see if there is any way that we can tuck this in. I understand from my numerous phone calls to her today that she was on vacation. I suspect that she isn't back yet. I haven't heard from her. I would love to be able to do this tomorrow. Mr. Speaker, I move this item be Tabled until later in today's session.

The SPEAKER: The Chair would remind members that the motion is out of order. You cannot Table the pending motion, it's Acceptance of the Majority Ought Not to Pass Report.

On motion of Representative BERRY of Bowdoinham, **TABLED** pending the motion of Representative GRAHAM of North Yarmouth to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Designate Election Day as an Official State Holiday"

(H.P. 406) (L.D. 587)

Signed:

Senator:

COLLINS of York

Representatives:

GRAHAM of North Yarmouth

HAYES of Buckfield

MacDONALD of Old Orchard Beach

NADEAU of Winslow

NADEAU of Fort Kent

PEASE of Morrill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-230)** on same Bill.

Signed:

Senator:

LACHOWICZ of Kennebec

Representatives:

BOLAND of Sanford

CHENETTE of Saco

READ.

On motion of Representative GRAHAM of North Yarmouth, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 756) (L.D. 1063) Bill "An Act To Remove a Conflict in the Law Restricting the Sale or Purchase of Targeted Methamphetamine Precursors" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 100) (L.D. 118) Bill "An Act To Ensure the Authenticity of Items Reported To Have Been Crafted by Native Americans" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-255)**

(H.P. 261) (L.D. 386) Bill "An Act To Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-247)**

(H.P. 462) (L.D. 670) Bill "An Act To Encourage the Use of Career Interest and Aptitude Tests in Higher Education" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-244)**

(H.P. 633) (L.D. 909) Resolve, To Establish MaineCare Eligibility for Parents Participating in Reunification Activities Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-248)**

(H.P. 643) (L.D. 919) Bill "An Act Concerning the Monetary Amount of Damage That Defines a Reportable Motor Vehicle Accident" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-251)**

(H.P. 653) (L.D. 929) Bill "An Act To Amend the Requirements for the Reporting of New Hires" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-249)**

(H.P. 991) (L.D. 1388) Bill "An Act To Clarify Civil Liability of Persons Making False Claims to the Department of Health and Human Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-250)**

(H.P. 1100) (L.D. 1527) Resolve, Authorizing the Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands To Convey Certain Lands and Enter into Certain Leases with the Federal Government Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-258)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

An Act To Streamline the Approval of Accessibility Structures
(H.P. 130) (L.D. 155)
(C. "A" H-222)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Restore MaineCare Coverage for Ambulatory Surgical Center Services
(H.P. 265) (L.D. 390)
(C. "A" H-215)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning Fertilizer and Lime Products
(H.P. 707) (L.D. 1009)
(H. "A" H-218 to C. "A" H-170)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Provide That Innkeepers and Certain Campground Operators Are Not Considered Landlords
(H.P. 909) (L.D. 1270)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education
(H.P. 232) (L.D. 323)
(S. "A" S-111 to C. "A" H-191)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Amend the Authorized Hours during Which Liquor May Be Sold and Purchased
(H.P. 19) (L.D. 15)
(C. "A" H-216)

An Act To Provide Transparency in Public-private Partnerships for Transportation Projects
(H.P. 493) (L.D. 721)
(C. "A" H-212)

An Act To Update and Clarify the Laws Governing the Operation of Bicycles on Public Roadways
(H.P. 1045) (L.D. 1460)
(C. "A" H-221)

An Act To Streamline the Laws Related to Transportation
(H.P. 1049) (L.D. 1464)
(C. "A" H-220)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, Directing the Bureau of Insurance To Study Issues Related to Long-term Care Insurance
(H.P. 121) (L.D. 146)
(C. "A" H-211)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 149

YEA - Ayotte, Beavers, Berry, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Hayes, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kinney, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Longstaff, Luchini, MacDonald W, Maker, Marks, Mason, Mastraccio, McCabe, McElwee, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nadeau C, Nelson, Noon, Peavey Haskell, Peoples, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Short, Stanley, Stuckey, Theriault, Tipping-Spitz, Tyler, Verow, Villa, Welsh, Werts, Wilson, Winchenbach, Mr. Speaker.

NAY - Beaulieu, Bennett, Black, Campbell R, Chase, Clark, Cotta, Crafts, Cray, Crockett, Davis, Doak, Dunphy, Duprey, Espling, Fitzpatrick, Gifford, Gillway, Guerin, Harvell, Jackson, Johnson D, Johnson P, Keschl, Knight, Libby A, Lockman, Long, MacDonald S, Malaby, Marean, McClellan, Nadeau A, Nutting, Parry, Pease, Reed, Sanderson, Sirocki, Timberlake, Turner, Volk, Weaver, Willette, Winsor, Wood.

ABSENT - Beaudoin, Beck, Casavant, Fredette, Herbig, Newendyke, Peterson, Saxton, Treat, Wallace.

Yes, 95; No, 46; Absent, 10; Excused, 0.

95 having voted in the affirmative and 46 voted in the negative, with 10 being absent, and accordingly the Resolve was

FINALLY PASSED, signed by the Speaker and sent to the Senate.

Resolve, To Create a Working Group To Survey Maine Schools on the Costs and Benefits of Contracting for Energy Conservation Improvements

(H.P. 458) (L.D. 666)
(C. "A" H-217)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 150

YEA - Ayotte, Beaulieu, Beavers, Berry, Black, Boland, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chapman, Chenette, Chipman, Clark, Cooper, Cotta, Cray, Crockett, Daughtry, Davis, DeChant, Devin, Dickerson, Dill, Dion, Dorney, Evangelos, Farnsworth, Fitzpatrick, Fowle, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Hamann, Harlow, Harvell, Hayes, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby N, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Nelson, Noon, Nutting, Peoples, Plante, Pouliot, Powers, Priest, Pringle, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Short, Stanley, Theriault, Timberlake, Tipping-Spitz, Tyler, Verow, Villa, Volk, Welsh, Werts, Willette, Wilson, Winchenbach, Wood, Mr. Speaker.

NAY - Bennett, Campbell R, Chase, Crafts, Doak, Dunphy, Duprey, Espling, Guerin, Jackson, Johnson D, Johnson P, Kaenrath, Libby A, Lockman, McClellan, McElwee, Nadeau A, Nadeau C, Parry, Pease, Peavey Haskell, Reed, Sanderson, Sirocki, Turner, Weaver, Winsor.

ABSENT - Beaudoin, Beck, Casavant, Fredette, Herbig, Newendyke, Peterson, Saxton, Stuckey, Treat, Wallace.

Yes, 112; No, 28; Absent, 11; Excused, 0.

112 having voted in the affirmative and 28 voted in the negative, with 11 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-58)** - Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Reduce the Number of Labels of Wine a Retailer Must Stock To Conduct a Wine Tasting"

(S.P. 16) (L.D. 24)

- In Senate, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-58)**.

TABLED - May 14, 2013 (Till Later Today) by Representative LUCHINI of Ellsworth.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass** - Committee on **TRANSPORTATION** on Bill "An Act To Allow Media Motor Vehicles To Be Equipped with Amber Auxiliary Lights"

(S.P. 123) (L.D. 327)

- In Senate, Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

TABLED - May 22, 2013 (Till Later Today) by Representative McCABE of Skowhegan.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Subsequently, Representative THERIAULT of Madawaska moved that the House **ACCEPT** the Minority **Ought to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Madawaska, Representative Theriault.

Representative **THERIAULT**: Thank you. This is a safety question, the request for an amber light to be used on a media vehicle to make them more visible for oncoming traffic. Again, I say mainly for their safety. Stopping to video an accident scene or report news that will be helpful to persons traveling is what media groups do. Many roads, especially rural roads, don't have the proper shoulders to park off-road to do what they have to do, where in many instances it would be safer for vehicles who would have the wider roads, but we don't have them in a lot of rural areas. Those people usually have equipment that they need to remove from their vehicle when they are pulled over, so they are working as they are doing their recording. Something of concern, usually, are the large trucks, the log trucks, the chip trucks that need to see and notice that vehicles are stopped for a special reason. Mainly, what happens is the light is used only when a vehicle is stopped to do its work and these media people must be a licensed media group before they can use the light. So that would be the reason, sir, and I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Arundel, Representative Parry.

Representative **PARRY**: Thank you, Mr. Speaker. I think I rise for the first time to disagree with my good committee chair. This was a bill that, in committee, we pretty much all disagreed with. We figured that with an extra amber light, we already have amber lights on the wreckers. We already have lights flashing on the police cars and rescues. This is an issue that we deal with all the time in Transportation. Once we allow one group to do it, we are going to get tens more next year. We found that out with signs. We opened the door and we continued to get more. This will just open the floodgates. We will have bill after bill after bill, I believe, next year and the following year on more groups that think it's necessary. These media vans, they all have four-way flashers. They can pull off to the side of the road. There is plenty

of flashing lights going on at the scene. We don't need to add another one. Mr. Speaker, could the Clerk please read the Committee Report?

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Werts.

Representative **WERTS**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I rise in support of this motion for the Minority Ought to Pass. The reason I do so, if you'll look on the record, I was part of the Majority Ought Not to Pass when this report first came out. The reason I have decided to change my mind is because when this bill was first being formulated, I supported it. As with a lot of other bills that come before us, it fell victim to the "me too" syndrome, and when it finally came to committee, that was the problem. As the Representative from Arundel spoke earlier, there were a lot of people that wanted the same thing. As a good committee, we recognized that and we turned it down. The amendment that was put on now takes it back to the people who asked for this in the first place which is the media people. I can tell you after 35 years in public safety, these folks need this. The places they go, the places we put them and the places they have to follow us to are a danger to them. It's a workplace safety issue to them. I ask you to vote in favor of this.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Chenette.

Representative **CHENETTE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion. I come from a unique perspective as a former TV journalist in rural Vermont, which is very similar to the area that this is going to be impacted, in particular, rural Maine. I remember, often times, we would listen to the police scanner, go out on fires, go out on crime scenes and to car accidents, and it puts the lives of journalists, which are our constituents, in danger because, often times, these vehicles from the media, especially the TV media, they might not be marked and if they are not marked, they are pulling off to the side of the road and this really is going to provide public safety officials a little reassurance in knowing who are these crazy people pulling off to the side of the road. Are these just onlookers or are these actual reporters? So this is actually going to help public safety officials and ensure that the lives of our journalists are kept safe. So I think this is a win-win. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Westbrook, Representative Peoples.

Representative **PEOPLES**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I was not going to stand up and say anything and I will be very brief. This is another one of those slippery slope bills. There is adequate lighting on the vehicles that these television reporters are using. If they were in any grave danger, we would have heard testimony from public safety officials, and we did not. If you had seen the number of add-ons who wanted to join the parade, you'd have been shocked. If we let this go through, it's opening the door to everybody and his brother to want an exception. This is a public safety issue. I believe that the professionalism of the journalists is enough that they've got the common sense to get far enough off the road not to get run into. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 151

YEA - Beaulieu, Berry, Brooks, Carey, Cassidy, Chapman, Chenette, Chipman, Daughtry, Dill, Dion, Evangelos, Farnsworth, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Hickman, Hobbins, Hubbell, Jones, Jorgensen, Kaenrath, Kent, Kumiega, Lajoie, Longstaff, Luchini, MacDonald W, Mastraccio, McCabe, McGowan, McLean, Monaghan-Derrig, Moonen, Moriarty, Morrison, Noon, Plante, Powers, Priest, Rochelo, Russell, Rykerson, Saucier, Schneck, Shaw, Stanley, Stuckey, Theriault, Tipping-Spitz, Villa, Welsh, Werts, Willette, Mr. Speaker.

NAY - Ayotte, Beavers, Bennett, Black, Boland, Bolduc, Briggs, Campbell J, Campbell R, Chase, Clark, Cooper, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Devin, Dickerson, Doak, Dorney, Dunphy, Duprey, Espling, Fitzpatrick, Fowle, Gattine, Gifford, Gillway, Guerin, Harvell, Hayes, Jackson, Johnson D, Johnson P, Keschl, Kinney, Knight, Kornfield, Kruger, Kusiak, Libby A, Lockman, Long, MacDonald S, Maker, Malaby, Marean, Marks, Mason, McClellan, McElwee, Nadeau A, Nadeau C, Nelson, Nutting, Parry, Pease, Peavey Haskell, Peoples, Pouliot, Pringle, Rankin, Reed, Rotundo, Sanborn, Sanderson, Short, Sirocki, Timberlake, Turner, Tyler, Verow, Volk, Weaver, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Beaudoin, Beck, Casavant, Fredette, Frey, Herbig, Libby N, Newendyke, Peterson, Saxton, Treat, Wallace.

Yes, 59; No, 80; Absent, 12; Excused, 0.

59 having voted in the affirmative and 80 voted in the negative, with 12 being absent, and accordingly the Minority **Ought to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative BERRY of Bowdoinham, the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-81) - Minority (6) Ought Not to Pass - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act To Reduce Obesity among Schoolchildren"

(S.P. 397) (L.D. 1160)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-81) AS AMENDED BY SENATE AMENDMENT "A" (S-121)** thereto.

TABLED - May 28, 2013 (Till Later Today) by Representative MacDONALD of Boothbay.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative MacDONALD.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill is a simple bill that requires that our schools provide half an hour of physical activity every day for students in K-5. Why is this important and why should we be doing this and why should we be talking about this bill at this time? One of the two main causes of obesity in young children, the two causes are improper diet and lack of exercise. This bill doesn't deal with improper diet, but it does deal with the lack of exercise that our kids have. Think about it. Here in Maine, long winter nights, short winter days, kids are in school most of the time. This is the perfect venue for kids to get the kind of exercise that they need in order to combat the obesity that we have. Maine ranks 13th right now in the rate of childhood

obesity and based upon a University of Maine study done in 2012, if we do nothing to change this, if we don't do nothing to change this trend, by 2030, 80,000 of our 300,000 or so kids in that age cohort will be obese. Again, school is a major place where we can have an impact on this huge societal problem. The cost for this growing problem will be something like, according to the University of Maine study, \$1.2 billion over the next 20 years. In addition, not only can we save money and improve kids' health if we make this requirement for our K-5 children, but we can also improve their learning.

The United States Department of Health and Human Services says, and I quote, "When children ... participate in the recommended level of physical activity ... multiple ... benefits [ensue.]" "Schools provide a unique venue for youth to meet [these requirements.]" This bill does not require physical education. All that it requires is that there be 30 minutes of physical activity a day. That activity can take place in classrooms. It can take place at recess. It can take place throughout the school day in many informal ways that would extremely benefit kids. Quoting again from the United States Department of Health and Human Services survey that I mentioned earlier, talking about recess, they say, "Time spent in recess appears to have a positive relationship with ... children's attention, concentration, [and] on-task classroom behavior." Nine studies that they looked at examined how the introduction of brief physical activities in a classroom affected aptitude, attention, memory, on-task behavior, academic achievement. In light, nine of these studies, or all of these studies rather, showed a positive association between physical activity and classroom work. So what we have before us is a bill that will not only forestall some major costs to our society if we don't address the issue of childhood obesity, but it will help children lead healthier lives and it will help them in their learning. So I ask you to support this bill. It is a mandate. It does require two-thirds of us to accept it, because it is an unfunded state mandate. But it doesn't require, the fiscal note says that it's a moderate fiscal impact statewide. The major fiscal impact would be on the Department of Education across the way. I think that if it's a mandate, I would call it mandate-lite because the goals of this bill can be accomplished within the structure of the school day as it now exists in most of our schools. I urge you to support this bill for the health of our young schoolchildren. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Willette.

Representative **WILLETTE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Although this bill sounds like a great idea, this is yet again the State Legislature telling our schools that they need to do another thing without giving them the funding. You know, a mandate, whether it is mandate-lite or a heavy mandate, it's still a mandate. I heard time and time again, while going door to door, from teachers, from administrators, in talking to folks in our school districts to stop intruding the schools and classrooms, and I think this is just another bad example. So I urge you to vote against the current motion, and Mr. Speaker, I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Nelson.

Representative **NELSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to urge you to support LD 1160. I would like to share with you some

thoughts about why I think this is an important policy for this Legislature to enact. We have a constitutional obligation to provide a free public education to all Maine children. We state in statute how many days school has to be in session, we established a system of learning results, we have adopted standards-based graduation requirements and the list of educational policies goes on and on. Some will argue that we are entirely too prescriptive about what we tell schools about how they provide that free public education. I believe that we set policies here that help our students to succeed. I believe that this bill is one of those important policies. We try to ensure that children are ready to enter kindergarten. We create school environments which allow each child to become a successful learner. Studies show that physical activity has a positive impact on academic performance. I have six grandchildren who demonstrate to me regularly the importance of physical activity of young children. Currently, there is nothing in statute or rule that requires recess or physical activity of students in school. Physicians and the U.S. Department of Health and Human Services recommend 60 minutes of physical activity per day. A typical second grade student in Maine receives just 36 minutes of physical education per week. This bill ensures that the best practices of providing recess and ensuring physical activity that are encouraged by the Department of Education are implemented in all schools in Maine, so that all K-5 age students will have physical activity as a part of each day. This can be accomplished through physical education class, recess, and/or classroom activities, and at no additional cost to the schools. We have talked a lot in this session about preparing students for the workforce and for life afterschool. I think that it is important to begin developing healthy practices from the very beginning of a child's school career. During testimony on this bill, there was a quote from the Carnegie Council on Adolescent Development in 1991 that I would like to share with you. "School systems are not responsible for meeting every need of their students. But when the need directly affects learning, the school must meet the challenge." So it is with health. This bill, which can be implemented within the current school day and curriculum, is good academically for children's learning and is an important part of ensuring a healthy society. Please vote to support LD 1160. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Kusiak.

Representative **KUSIAK**: Thank you, Mr. Speaker. I rise in support of the Minority Report on the current bill, in all due respect to my seatmate and other friends here in this body. I urge you not to pass LD 1160, "An Act To Reduce Obesity among Schoolchildren," and here is why. Like many, if not all of us, I certainly support healthy physical development of children and accept that schools have a role to play in promoting healthy physical development. However, if we want to encourage additional physical development of children and ensure physical activity during that time, the Legislature should mandate and pay for additional physical education classes, including the training for additional physical educators as well as the space and equipment for them to work with multiple classes of students every day. Every school will need more physical education teachers. I support incorporating movement into classroom lessons, I support giving consideration for developing kinesthetic awareness or intelligence in classroom learning activities; however, I oppose the measure before us for a number of reasons.

One, the 30-minute activity rule should be a local decision, not a state mandate. Two, most K-12 schools already provide the equivalent of 30 minutes a day of activity or a freedom for

pursuing physical activity, which is recess. There is no guarantee how children spend that time. This bill will simply make more work for school administrators who will be required to adopt local policy, monitor compliance, possibly prepare reports. As an aside, how many times have we heard complaints about too many school administrators and people wanting to reduce the numbers of them? In fact, if we want to do that, we should limit the number of mandates. Point three. Schools cannot be responsible for solving all societal problems. While schools can and do contribute to children's health and development, schools already promote healthy development through health classes, health curriculum, through improvements in school lunch programs, which can and should be improved further, I agree, and by banning the sale of soft drinks during the school days. However, schools should not have to take on the added measure to, without fail, in zero-degree weather and in 90-degree weather, that schoolchildren will have 30 minutes a day of physical activity. Point four. It's easy to anticipate unintended consequences from this feel-good legislation. Will common sense prevail when the weather is inclement, as in the situation to which I alluded above, or rational heads prevail when a girl who practices with the Y swim team three afternoons a week for 90 minutes and needs to spend a recess period with a teacher or tutor to straighten out a misunderstanding in mathematics or expository writing. What will happen then? Can the child not receive that service? I fear that schools will strictly enforce this piece of legislation, after all, the bill is a mandate, and that local school administrators and teachers will be unable to make the best decision for children on any given day. Mandate strong, if you must, and support additional physical education, but we need to pay for it. Let's treat children like children, I agree, and not obsess about their academic test scores. That's the reason why recess has been taken away from children, because of our obsession with test scores. School officials haven't restricted recess because they don't acknowledge that children need to move. They have restricted recess time because it is a rational response to pressure from economic and corporate models of school reform measures. Let's talk about that. Let's talk about neoliberal reforms that have led to us being in the position to legislate physical activity rather than take on another mandate. I urge you not to pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. If the bill before us today required that we feed children lunch in schools, there would be no question how we would vote, and the science is clear that physical activity during the day matters as much as eating lunch to one's learning. It matters as much to one's learning as physical activity. Most schools are already doing this and physical education is not required, so I want to correct the record. Physical activity is what we're talking about, 30 minutes of physical activity. The guidelines are clear, 60 minutes a day is where we should be. Thirty minutes is the least we can do. As a classroom teacher for 20 years, I know that this was easy to do, you can work the movement into the day of the school, you can work it into the classroom, you can work it into the lesson. It is important. We need to go forward with this important legislation. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Pouliot.

Representative **POULIOT**: All right, I'm going to keep this short. When I was in school my superlative was "teacher's pest." I got into trouble a lot for talking and now I put it to good use, I guess. So when I was in elementary school I spent a lot of time

in the principal's office, while all of my friends were outside playing and I think it made things worse because I wasn't able to get that energy out. You know, a little boy full of energy. I should have been outside playing. Instead I was sitting there writing sentences about why I wouldn't do this again, and then the next day I was there again. So when Senator Millett, hopefully I can say that, asked me to sign on to this bill and she said this bill will not allow teachers to take away recess from students as punishment, I'm like where do I sign? I think that activity is important for students. I think that getting that energy out, especially at a young age, can help them focus more on their learning, and I think that it's very important that we pass this bill. So I'm going to keep it short and simple and that's all I have to say. Thanks.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Moriarty.

Representative **MORIARTY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I don't think that anyone is under the illusion that this bill standing alone is going to reverse the trend in childhood obesity, but it is a step in the right direction. When properly done, this sort of curriculum can both develop, encourage and foster activities that can last a lifetime. When I listened to my colleague, the Representative from Boothbay, recite the many beneficial effects of regular physical exercise, it rang home true for me, and so speaking as one who would almost kill for 30 minutes of regular exercise daily these days, I will vote with the majority. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I know I've said it before and said this generally. There are only two reasons to talk in here. One of them is to persuade and the other is to inform. Well, I realize now that some of us do it to entertain, which is not my goal at this point in time, and sometimes we do it to vent and I think that's why I'm standing at this particular point. The frustration I have is not that children shouldn't be expected to move more often when they are in school, but that we won't change our own behavior so we think we have to fix it in that six hours. That six hours is the maximum time that most of these youngsters are our responsibility in the public school system. Where does that school bus pick those youngsters up? At the end of their driveway. Where does it drop them off? Right in front of the door. You stop that school bus a half a mile before the school and you walk the last half mile in, and guess what, you've got that checked off of your list before the start of the day and you are ready to learn, okay? But do you know why we don't do that? Because we're going to run them over, because we won't drive slow enough to make our public roadways safe for our own children to walk to school. Now I don't mean just us in this room. I mean all of us, collectively. So we're going to dump this on that six hours, the same amount of time we give those teachers to give them everything we want them to know, to be critical thinkers and wonderful – I'm forgetting the words, but those on the Education Committee know what I'm talking about, those little building block things. I can't remember what's inside of them. Anyway, we only have six hours, so if we really want to do something that means something, let's change the paradigm and change our own behavior and make it safe for our kids to walk partway to school, so that they will get there with their blood pumping and their brains ready to learn something instead of saying "You figure out how to do it in that six hours. We're not going to give you any more time or any more money, but by golly you better fix it." And that's the vent. Thank you for listening.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Nadeau.

Representative **NADEAU**: Mr. Speaker, I ask my colleagues, what is the purpose of school but to educate our children? To feed our children because they have to be there is one of the things as a sideline, I suppose, but the schools are there to teach the children. Obesity, why don't we have a recess over here? Look at me. Is it the Legislature's job to make me nice, fit and slim? How many rules are we going to put on teachers and on schools? I don't disagree that there is an issue with obesity, it's not hard to see. But putting it onto the schools is not the answer. Where do the parents live? It starts at home. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Plante.

Representative **PLANTE**: Thank you, Mr. Speaker. My father is 54 years old. Now, I must admit, I don't think he'd want me to say that but when he was a kid, all the way through high school, physical education was a class that he had and when a lot of those kids came out, they were in much better shape than the numbers show today. Our obesity rates are higher today than they were when my parents were going through grade school. Now, I'm not going to say that the limitation of physical activity, either through gym class or through a recess, is the sole reason that we have obesity rates higher than we had back when my parents were children, but the fact that we have fewer opportunities or fewer rules and requirements for physical education and a rise in obesity, isn't necessarily just two ironic moments in time that seem to have met together. It's not that that's how it works. The reality is we need to use our schools to do what they did 30 years ago and take the advances we've made with education and combine the two. It isn't a stretch to say that physical education is the right thing to do. See, I only had to have two semesters over the course of four years of physical education throughout my high school career. Is that all we want to think that you need? Now, I don't want to say kids need to have it every semester, a class, but I think every year to get physical education, this isn't an outrageous demand. It's the right thing to do. I chose to have all four years. I did a personal fitness class so I could lift and try and gain a little bit more strength as I played in my sports. But the reality was when my father was a child, he was able to go through, if he was playing a sport during a particular season and he didn't have to have that gym class, but he had to have it the whole year through or at least any time when he wasn't playing a sport. We've worked our way down to two semesters out of eight years, there you go, that's good enough. But yet we see a trend where obesity is increasing and this need to put together rules or at least a requirement, we're saying, you know, physical education is a part of your education. Well, that's not necessary anymore. I find that to be the wrong approach. I appreciate what the Education Committee has put forth and I support the motion as it currently is stated. Thank you.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to rise on this, but I thought I would because it's such fun. I believe that we employ professionals in the administrative parts of our schools and as our teachers, and I don't think that we need to spoon feed them everything that they need to do. If we do need to do that, we're in trouble. It reminds me of a saying we used to have in the Army when you were confronted with trying to tell somebody something that you expected them to know, and it says you shouldn't have to tell them to suck eggs.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Grant.

Representative **GRANT**: Thank you, Mr. Speaker. I rise in support of the motion before us because I needed the exercise. In my other life, I'm a grant writer and one of the grants I was very proud to secure was a grant from the Federal Government, the Carol White Physical Education Program Grant, for my community, Gardiner. That was a wonderful process that gave our community an opportunity to do some research, to work with our educators. We did some research on the obesity levels, on the physical condition of our students, and we were dismayed about how many of our kids had very little physical activity, how many of them were already obese, and we all know the diseases that come from obesity, type 2 diabetes being rampant now among our young people. In the course of that, our school, our teachers were challenged to find ways to incorporate movement into their everyday curriculum, so they didn't have to have an add-on, it didn't have to cost money, and they were very creative about it. So I submit to you that our educators are the most creative, most skilled people out there. This will not be seen as a mandate that they don't want to implement. They are anxious and ready to help their students be healthier, and regardless of what else we did, if our children are not healthy, nothing else we do will matter as much. So I hope that you will support this and I also would hope that we might be able to have recess for the Legislature. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Gideon.

Representative **GIDEON**: Thank you, Mr. Speaker. Mr. Speaker, Women and Men of the House. I rise today in support of this bill. Since the House started meeting at 9 a.m., I have been late most days and the reason for that is because I drop my three children off at school before I come here. It's extra time with my kids, but it also gives me an opportunity to interact with the teachers at school. And on Tuesday, I guess that was yesterday, this week, I happened to be sitting in the lobby waiting for the bell to ring with my children when the physical education teacher walked by and she waved a piece of paper at me and the piece of paper was some information about this bill and she said, "I've been waiting for something like this. Please support it." So I want you to know that teachers out there support this bill. I just also want to share a little bit of information about how some of the K-5 teachers approach both physical activity and the way children learn in school. My son, last year, in second grade, had a wonderful teacher who understood and noticed and observed every time the kid started to wiggle. They would be working so hard at their writing and she would say, "Everybody stop. We're going to take five minutes." She'd pull out her boom box, she'd put on dance music and they would dance like crazy for five minutes. They would literally get sweaty and then they would sit down and they would get back to work and they were focused. I can tell you this because I was sitting in the classroom with them volunteering at the time. This bill is about preventative care, yes. It's about obesity. But it's also about helping kids and meeting them in a place and the way they can learn the best. They need to move. Please consider supporting this bill.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative McClellan.

Representative **McCLELLAN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm on the Education Committee. We have discussions on topics like this all the time. When I was elected two plus years ago, my favorite educator said to me "Now you need to know the school day is already full, so if you're going to add something to the school day,

you need to take something away." Then she said, "No, you need to take two things away." So that's been one thing that I have carried for my two and a half years. Mr. Speaker, I've done a better job this term keeping in touch with my school systems and I've met with educators and they like a lot of the ideas that come up in the Education Committee, but they get really concerned about the mandates and they get concerned about the lack of funding. We ask them all the time to do things and we don't want to pay for it, so they are concerned with that. I see this bill as an overreach on the family. Something I've said for probably the last two and a half years that I've been on this committee, as I look at our schools, is that as a culture we've made our schools doctors, we've made them nurses, psychiatrists, social workers, restaurants, drivers, and I'm missing a couple of things on the list, and then we get upset when they don't teach. So that concerns me greatly. I think health is the family's responsibility. I think an Ought Not to Pass respects educators and I would ask you to follow my light, Ought Not to Pass. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative DAUGHTRY: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First off, I'd like to say ditto to the good Representative from Augusta, my fellow colleague on the Education Committee, and I'd also like to say that many of the good Representatives who have spoken before me are absolutely right about the need for physical activity in the Legislature. So I encourage you all to stretch, roll back your shoulders, maybe do a little side to side. Get that blood flowing. Maybe get up and walk to the bathroom. But in all seriousness, I'm rising in support of the Majority Report and I think that this is very important for several different reasons. One of the basic things that really gets to me at the heart of this bill is we really do need to do something about the obesity epidemic in this country. The Department of Defense released a report called "Too Fat to Fight." They noticed that this country, if we continue on our current path, will be too obese to defend our own nation. That's right, folks. We're headed on a path to the future where we will not be able to stand up and defend what we care about, and I think that this is a small step but it's a step forward to combatting that obesity. And I understand there is a lot of conversations about how much we are putting on the school day, and it is a huge concern. We really need to be careful that we're not mandating too many elements and putting too much unneeded burden on our teachers, but there are some life skills that we need to be teaching our students. How to survive in the world, how to get a good job, how to survive in the workplace, how to have good financial skills, and I think setting a good standard for your future health by teaching our kids to be physically active is crucial. So I urge you all to follow my light and to support the Majority Ought to Pass, and I once again remind you to stretch. It's important. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Cooper.

Representative COOPER: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Before I came here, one of the things that I did was I was a substitute teacher in elementary school in Yarmouth. In the elementary school classrooms, I found that the kids were so full of pent up energy after a lesson in whatever, math, spelling, reading, that they could barely contain themselves. They were like coiled springs. And I'm sure all of you who have had young children in your lives, or have them now, know this is the case. So I rise in support of this motion, not so much because of what I think it might do to help our children learn to be more active physically, to prevent

obesity, but because I think it is an essential tool for learning. They have to get that energy out so that they can focus on things that require sitting still and focusing on what someone is saying. I would also say that I favor this because of the many mandates that teachers already have, precisely because of that. By fourth grade, they are already teaching to the tests. Their kids have to learn reading, writing and all kinds of specific skills that they are going to be tested on, so giving up exercise is going to be one of the first things to go. So we have to give them our encouragement through this mandate not to give up this function of what kids need, because it is so essential to their learning. And as has been said before, it doesn't have to be done in a half hour block of time. It can be done in short spurts and probably that's even more effective. So I urge you to recall your days as a child and to think about your grandkids and your kids and how they behave when they've been sitting too long and vote for this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Hamann.

Representative HAMANN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of this motion, quite simply because when you move the body, you move the mind, and moving the mind improves educational outcomes. If improving educational outcomes isn't within the jurisdiction of our public schools, then I don't know what is. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 152

YEA - Beavers, Berry, Bolduc, Briggs, Brooks, Campbell J, Carey, Cassidy, Chapman, Chenette, Chipman, Cooper, Daughtry, Dickerson, Dorney, Duprey, Evangelos, Farnsworth, Gattine, Gideon, Gilbert, Goode, Graham, Grant, Hamann, Harlow, Hobbins, Jones, Jorgensen, Kaenrath, Kent, Kruger, Lajoie, Longstaff, Luchini, MacDonald W, Maker, Marks, Mastraccio, McCabe, McLean, Monaghan-Derrig, Moonen, Moriarty, Nadeau C, Nelson, Noon, Peoples, Plante, Pouliot, Powers, Priest, Rankin, Rochelo, Rotundo, Russell, Rykerson, Sanborn, Saucier, Shaw, Stanley, Stuckey, Theriault, Tipping-Spitz, Villa, Welsh, Werts, Mr. Speaker.

NAY - Ayotte, Beaulieu, Bennett, Black, Boland, Campbell R, Chase, Clark, Cotta, Crafts, Cray, Crockett, Davis, DeChant, Devin, Dill, Dion, Doak, Dunphy, Espling, Fitzpatrick, Fowle, Frey, Gifford, Gillway, Guerin, Harvell, Hayes, Hubbell, Jackson, Johnson D, Johnson P, Keschl, Kinney, Knight, Kornfield, Kumiaga, Kusiak, Libby A, Libby N, Lockman, Long, MacDonald S, Malaby, Marean, Mason, McClellan, McElwee, McGowan, Morrison, Nadeau A, Nutting, Parry, Pease, Peavey Haskell, Pringle, Reed, Sanderson, Schneck, Short, Sirocki, Timberlake, Turner, Tyler, Verow, Volk, Weaver, Willette, Wilson, Winchenbach, Winsor, Wood.

ABSENT - Beaudoin, Beck, Casavant, Fredette, Herbig, Hickman, Newendyke, Peterson, Saxton, Treat, Wallace.

Yes, 68; No, 72; Absent, 11; Excused, 0.

68 having voted in the affirmative and 72 voted in the negative, with 11 being absent, and accordingly the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative BERRY of Bowdoinham, the Minority Ought Not to Pass Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

**CONSENT CALENDAR
First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 51) (L.D. 130) Bill "An Act To Stabilize Education Funding by Reducing the Impact of Changes in Property Valuation" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-128)**

(S.P. 78) (L.D. 242) Bill "An Act To Improve the Military Bureau Laws" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-131)**

(S.P. 171) (L.D. 439) Bill "An Act To Improve Maine's Charter School Laws" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-127)**

(S.P. 215) (L.D. 625) Bill "An Act To Exempt Certain Businesses from Being Considered Campgrounds" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-134)**

(S.P. 267) (L.D. 729) Bill "An Act To Allow Charter Schools To Request Waivers from Certain Requirements" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-137)**

(S.P. 384) (L.D. 1102) Bill "An Act Regarding Reconstruction of Residential Structures on Sand Dunes" (EMERGENCY) Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-132)**

(S.P. 404) (L.D. 1167) Bill "An Act Regarding the Maine Guaranteed Access Reinsurance Association" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-126)**

(S.P. 457) (L.D. 1318) Bill "An Act To Clarify the Law Regarding Advertising Signs outside Premises Licensed To Sell Alcohol" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-129)**

(S.P. 474) (L.D. 1355) Bill "An Act To Increase the Monetary Limit for Card Games" Committee on **VETERANS AND LEGAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-130)**

(S.P. 494) (L.D. 1392) Bill "An Act To Amend the Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-133)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 153) (L.D. 373) Bill "An Act To Provide Clarity to Priority Chemical Reporting Requirements" Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass**

(H.P. 359) (L.D. 540) Bill "An Act To Amend the Laws Governing the Discharge of a Firearm or Crossbow near a Dwelling or Building" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-264)**

(H.P. 554) (L.D. 803) Bill "An Act Regarding Certain Aspects of Infant Care in Child Care Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-268)**

(H.P. 562) (L.D. 811) Bill "An Act To Provide Guidance for the Development of Marine Fisheries Management Plans" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-259)**

(H.P. 580) (L.D. 829) Resolve, To Complete the Timely and Appropriate Redesign of Shared Living Services for Adults with Intellectual Disabilities or Autism (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-269)**

(H.P. 757) (L.D. 1064) Resolve, To Establish the Task Force on Independence from Public Assistance (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-270)**

(H.P. 905) (L.D. 1266) Bill "An Act To Provide the Securities Administrator with the Power To Investigate Potential Violations Involving the Sale of Business Opportunities" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-265)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Resolve, To Allow the Use of Live Bait When Ice Fishing in Certain Waters of the State

(S.P. 59) (L.D. 170)

Signed:

Senators:

DUTREMBLE of York
HASKELL of Cumberland

Representatives:

SHAW of Standish
BRIGGS of Mexico
CRAFTS of Lisbon
DAVIS of Sangerville
ESPLING of New Gloucester
EVANGELOS of Friendship
KUSIAK of Fairfield
MARKS of Pittston
SHORT of Pittsfield
WOOD of Sabattus

Minority Report of the same Committee reporting **Ought to Pass** on same Resolve.

Signed:

Senator:

BURNS of Washington

Came from the Senate with the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.
READ.

On motion of Representative SHAW of Standish, the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative HARVELL of Farmington, the House adjourned at 7:11 p.m., until 9:00 a.m., Thursday, May 30, 2013 in honor and lasting tribute to George Davis McPhail, of Limington, Lawrence Yeaton, of Farmington and C.J. Polyot, of Bangor.